

Draft: 18 May 2024

The British Waterski & Wakeboard Federation Limited
Safeguarding Regulation

The British Water Ski & Wakeboard Federation Limited registered in England and Wales with company number 0913182

1. INTRODUCTION

- 1.1 The British Waterski & Wakeboard Federation Limited (**BWSW**) recognises that ensuring the welfare of all those participating in our sport (each of the recognised disciplines being collectively referred to as **Waterskiing**) is fundamental in its own right. It is also vital for the good reputation of the sport and its long-term health and vitality at all levels. Accordingly, BWSW expects all clubs and Participants to maintain appropriate standards and behaviour in relation to their welfare and that of other people around them at all times.
- 1.2 The core aim of this Safeguarding Regulation is to ensure the welfare of Protected Persons. The Safeguarding Regulation establishes a framework through which BWSW may address matters concerning the harm, or possibility of harm, to Protected Persons.
- 1.3 Certain defined terms are used in this Safeguarding Regulation and their respective meanings are set out in Appendix 1.

2. SCOPE AND APPLICATION

- 2.1 This Safeguarding Regulation applies to Participants. For these purposes, a "**Participant**" is any person taking part or otherwise involved in our sport (whether in a paid or voluntary capacity) including:
- (a) a BWSW affiliated or accredited club/centre together with its directors, employees and contractors;
 - (b) a coach at a BWSW affiliated or accredited club/centre;
 - (c) a volunteer at a BWSW affiliated or accredited club/centre;
 - (d) a member of a BWSW affiliated or accredited club/centre and an associate member of BWSW itself;
 - (e) a person who participates in Waterskiing at an affiliated or accredited club/centre;
 - (f) a competitor who participates in competitions;
 - (g) an athlete who is selected as part of a team or squad to participate in any BWSW or IWWF sanctioned event;
 - (h) a coach, trainer, manager, selector, official, doctor, physiotherapist or any other person who is employed by, represents or is otherwise affiliated to a club/centre, team or squad;
 - (i) an official who officiates at competitions/ events;

- (j) a BWSW employee, director, committee member or contractor; and/or
- (k) any other person who comes within the BWSW Network (as defined in the Safeguarding and Protecting Children and Young Persons Policy)

2.2 Each existing Participant is automatically bound by this Safeguarding Regulation from the Issue Date and any person who becomes a Participant after the Issue Date shall be automatically bound from the date that they become a Participant. From that point, they shall be deemed to have agreed:

- (a) not to engage in Prohibited Conduct;
- (b) that it is their personal responsibility to familiarise him/herself with all of the requirements of this Safeguarding Regulation, and to comply with those requirements (where applicable);
- (c) to submit to the jurisdiction of BWSW to investigate apparent or suspected Prohibited Conduct and where it is deemed appropriate by the Case Management Group that an allegation of Prohibited Conduct requires to be investigated, BWSW may appoint an independent safeguarding expert (e.g. from the National Safeguarding Panel) to assist in relation to the investigation or investigate the matter on the BWSW's behalf;
- (d) the following matters may be submitted for determination by the National Safeguarding Panel in accordance with the NSP Rules (which are deemed to be incorporated by reference):
 - (i) allegations that the Participant has engaged in Prohibited Conduct which directly or indirectly adversely affects the welfare and safety of a child and /or an Adult at Risk and/or places them at risk;
 - (ii) an application that a Provisional Suspension, arising from concerns or allegations that a Participant has engaged in Prohibited Conduct which directly or indirectly adversely affects the welfare and safety of a child and/or an Adult as Risk and/or places them at risk, should not be imposed (or be lifted); and /or
 - (iii) an appeal brought against any finding of fact and/or decision made under this Safeguarding Regulation (or other policies of BWSW) regarding the conduct of a person which directly or indirectly adversely affects the welfare and safety of a child or Adult at Risk and/or places them at risk.

- (e) the burden of proof which shall apply to determining whether Prohibited Conduct has taken place will be on the balance of probabilities (rather than beyond reasonable doubt);
- (f) not to bring any proceedings in any court or other forum that are inconsistent with the foregoing submissions to the jurisdiction of the National Safeguarding Panel and/or any arbitral tribunal or appeals tribunal convened by Sport Resolutions; and
- (g) to waive and forfeit any rights, defences and privileges provided by any law to withhold, or reject the provision of, information requested by or pursuant to any investigation under this Safeguarding Regulation.

NOTE:

Whether or not a Participant's conduct constitutes Prohibited Conduct - or he/she poses a risk of harm (in the context of Article 3.1, below), will inevitably involve a fact-specific analysis. In assessing whether a Participant may pose a risk of harm, BWSW is entitled to take into account Prohibited Conduct that took place at any time and anywhere. Accordingly, no criminal or civil rules based on statutes of limitations or time bars of any kind shall prevent BWSW from investigating assessing, considering and adjudicating on relevant conduct regardless of when or where it occurred.

- 2.3 This Safeguarding Regulation does not set out criminal laws but rather disciplinary rules of conduct for those involved in Water skiing. However, Prohibited Conduct may also be a criminal offence and/or a breach of other applicable laws or regulations. This Safeguarding Regulation is intended to supplement such laws and regulations. This Safeguarding Regulation is not intended, and should not be interpreted, construed or applied, to prejudice or undermine in any way the application of such laws and regulations. Participants must comply with all applicable laws and regulations at all times. Where a Participant who is an employee or contractor of BWSW breaches this Safeguarding Regulation, BWSW may choose to pursue its remedies against him/her under employment law and/or contract law and/or under this Safeguarding Regulation, as it sees fit.

3. PROHIBITED CONDUCT

Any act or omission that would amount to a breach of Articles 3.1 - 3.4 of this Safeguarding Regulation shall constitute "**Prohibited Conduct**".

- 3.1 No Participant may (i) engage, or attempt or threaten to engage, in conduct that directly or indirectly harms the physical and/or mental welfare and/or safety of one or more Protected Persons, and/or (ii) pose a risk of harm to the physical and/or mental welfare and/or safety of one or more Protected Persons. Without limitation, Appendix 2 to this Safeguarding Regulation sets out some conduct that might constitute 'harm' for these purposes.
- 3.2 All Participants subject to an investigation under this Safeguarding Regulation, or who may otherwise be asked to assist with any such investigation, shall cooperate, without delay,

with the investigation, unless there is compelling justification as to why they are unable to cooperate with the investigation.

- 3.3 No Participant (whether directly or indirectly through a third party) may treat any other Participant or other person in a negative and/or detrimental manner on the ground or belief that such Participant or other person has reported a concern or matter to BWSW and/or assisted BWSW in any manner in relation to any investigation or proceedings brought under this Safeguarding Regulation.
- 3.4 No Participant who is the subject of any investigation in relation to matters covered by this Safeguarding Regulation shall act in bad faith (including, without limitation, falsifying, distorting or misrepresenting information, the resolution process or the outcome of an investigation or sanctions imposed).

4. REPORTING AND BWSW'S POWERS OF INVESTIGATION

- 4.1 BWSW has developed procedures for reporting a safeguarding concern including the Safeguarding Incident Report Form which should be sent to the Safeguarding Lead Officer in accordance with the instructions which can be found on the BWSW website.
- 4.2 Upon receipt of information (from any source) that gives the Safeguarding Lead Officer ground(s) to suspect that a Participant might have engaged in Prohibited Conduct (following an initial review of the report) he shall refer the matter to the Case Management Group.
- 4.3 The Case Management Group shall
- (a) in the case of an allegation of Prohibited Conduct involving a child or an Adult at Risk
 - (i) decide whether or not to refer the matter to the National Safeguarding Panel under the Safeguarding Case Management Programme for advice on how to proceed including whether an investigation should be conducted;
 - (ii) if an investigation is advised, appoint the National Safeguarding Panel to assist with or conduct an investigation on BWSW's behalf and report its findings and recommendations to the Case Management Group;
 - (b) in the case of an allegation of Prohibited Conduct **not** involving a child or an Adult at Risk, decide to
 - (i) investigate the matter itself; or
 - (ii) appoint another person(s), including an independent safeguarding expert or experts (e.g. from the list maintained by Sport Resolutions) to assist with or conduct an investigation on BWSW's behalf and report its findings and recommendations to the Case Management Group.

- 4.4 In relation to any investigation commenced under this Safeguarding Regulation, the Case Management Group on behalf of BWSW (or its appointee) may require any Participant (and request other parties) to:
- (a) attend to answer and provide information and/or answer questions by way of interview;
 - (b) produce documents, information or other material in whatever form held;
 - (c) undertake a risk assessment by a suitably qualified person appointed by the Case Management Group on behalf of BWSW (or its appointee) in such form as the Case Management Group on behalf of BWSW (or its appointee), at its discretion, considers appropriate; and/or
 - (d) cooperate in any other manner that might be necessary or desirable for the purposes of the investigation.
- 4.5 A Participant the subject of an investigation may at any time prior to the conclusion of the investigation elect to admit the matters in question and request that any sanctions or risk management measures are dealt with informally without the need to adhere to the process set out in this Safeguarding Regulation. If the Lead Safeguarding Officer agrees to such a request and the matter is dealt with to their satisfaction the agreement made with the Participant will be binding on both BWSW and the Participant.

5. PROVISIONAL SUSPENSION

- 5.1 At any point during an investigation where the Case Management Group has reasonable ground(s) to suspect that a Participant has engaged in Prohibited Conduct, it may Provisionally Suspend that Participant, for such duration, and on such terms and conditions as it considers appropriate, pending final determination of the matter.
- 5.2 The Case Management Group will impose a Provisional Suspension only in cases where it considers it to be reasonable and proportionate, and taking into account the aims and objectives of this Safeguarding Regulation. Prior to issuing a Provisional Suspension, the Case Management Group will consider the following matters:
- (a) whether any Protected Person is or may be at risk of harm;
 - (b) the prospect of any charge(s) under this Safeguarding Regulation being made;
 - (c) the seriousness of the suspected Prohibited Conduct;
 - (d) whether a Provisional Suspension is necessary or desirable to allow the conduct of any investigation by the Case Management Group on behalf of BWSW (or its appointee), the police or any other relevant authority to proceed unimpeded;
 - (e) the opinion of any independent safeguarding expert (should the Case Management Group on behalf of BWSW choose to seek such an opinion); and

- (f) any other circumstances that might be relevant to the individual case.
- 5.3 If the Case Management Group issues a Provisional Suspension, the Participant will be promptly notified by BWSW. The notification should, unless impracticable for any reason (such as prejudice to an investigation or because of the risk of harm to any person):
- (a) set out the reasons why the Provisional Suspension has been imposed;
 - (b) detail the scope of the Provisional Suspension, i.e., which activities the Participant is prohibited from undertaking (which may be all or some of those activities set out at Article 5.5); and
 - (c) advise that the Participant may apply to have the Provisional Suspension lifted or varied
 - (i) in accordance with the appeal process described in the NSP Rules where the alleged Prohibited Conduct involves a child or Adult at Risk or
 - (ii) where the alleged Prohibited Conduct does **not** involve a child or Adult at Risk, any appeal shall be made within 21 days of the date of the Provisional Suspension, to a sole arbitrator appointed in accordance with the Sport Resolutions Arbitration Rules. The appeal against the Provisional Suspension shall be governed by the Arbitration Act 1996 and Sport Resolutions Arbitration Rules, which rules are deemed to be incorporated by reference into this Safeguarding Regulation. The decision of the arbitrator shall be final and binding on all concerned.
- 5.4 A Provisional Suspension will otherwise remain in force pending final determination of the matter.
- 5.5 Unless the terms of a Provisional Suspension are varied in any way, while Provisionally Suspended a Participant may not train, compete, coach, attend, officiate or otherwise participate or be involved in any capacity in any club, competition, event or activity (other than authorised education or rehabilitation programmes) that is authorised, organised, sanctioned, recognised or supported in any way by BWSW.
- 5.6 BWSW may publish and/or share information relating to a Provisional Suspension on a 'need to know' basis with the safeguarding committee chair of the IWWF and/or any other relevant third parties, in such form and manner, and to such extent, as it deems necessary for the purposes of enforcement and/or compliance and having due regard for the aims and objectives of this Safeguarding Regulation at all times.

6. NOTICE OF CHARGE

- 6.1 At the conclusion of an investigation commenced under Article 3 of this Safeguarding Regulation (or in the case of a breach of Article 3.2 and/or Article 4.4 an investigation is impeded and cannot be concluded), if the Case Management Group concludes that the

Participant under investigation has a case to answer for Prohibited Conduct, BWSW will send a written notice of charge ("**Notice of Charge**") to that Participant:

- (a) confirming that a charge(s) is (are) being issued against the Participant under this Safeguarding Regulation;
- (b) detailing the facts and evidence on which the charge(s) is (are) based;
- (c) detailing the terms and conditions of any Provisional Suspension (if different from or not already imposed under Article 5);
- (d) setting out the sanction and/or risk management measure(s) it considers appropriate in the event that the charge(s) is (are) admitted or upheld; and
- (e) requiring the Participant's written response to the charge(s) within 14 (fourteen) days.

6.2 A Participant may respond to a Notice of Charge in one of the following ways:

- (a) to admit the charge(s) and accede to the sanction and/or risk management measure(s) specified in the Notice of Charge;
- (b) to admit the charge(s), but indicate an intention to dispute and/or seek to mitigate the proposed sanction and/or risk management measure(s) specified in the Notice of Charge at a hearing; or
- (c) to deny the charge(s) and to have the charge(s) and (if the charge(s) is (are) upheld) any appropriate sanction and/or risk management measure(s) determined at a hearing.

6.3 In the event that a Notice of Charge is sent to a Participant who was under the age of 18 years when the relevant Prohibited Conduct is alleged to have occurred, BWSW may send a copy of the Notice of Charge to the Participant's parent/legal guardian/carer.

6.4 If no response to the Notice of Charge is received from the Participant within 21 (twenty-one) days, or by any extended timeline that BWSW deems appropriate, the Participant will be deemed to have:

- (a) admitted the charge(s) as specified in the Notice of Charge;
- (b) waived his/her entitlement to a hearing; and
- (c) acceded to the sanction and/or risk management measure(s) specified in the Notice of Charge.

7. CONVENING A HEARING AND APPEAL HEARING

7.1 Following receipt of a response to a Notice of Charge under Article 6.2 (b) or 6.2.(c) where the Participant indicates that they want the matter to be determined at a hearing, BWSW shall

- (a) in the case of an allegation of Prohibited Conduct involving a child or an Adult at Risk, within 14 days of receipt of the response to a Notice of Charge make a Request for Arbitration to the National Safeguarding Panel under the NSP Rules and the hearing of the matter (and any appeal) shall proceed pursuant to the NSP Rules;
- (b) in the case of an allegation of Prohibited Conduct **not** involving a child or an Adult at Risk, as soon as reasonably practically convene a Disciplinary Committee in accordance with the procedure set out in the Code of Conduct and any appeal against a decision of the Disciplinary Committee shall proceed pursuant to the Sport Resolutions Arbitration Rules as set out in the Code of Conduct.

8. SANCTIONS AND RISK MANAGEMENT MEASURES

8.1 The following range of sanctions and risk management measures should be considered where the Case Management Group, Arbitral Tribunal or Disciplinary Committee (as appropriate) concludes that a Participant has engaged in Prohibited Conduct:

- (a) a warning as to future conduct;
- (b) a reprimand;
- (c) an order requiring a Participant to undertake specific training/education;
- (d) an order requiring a Participant to be monitored in specific matters;
- (e) compensation payments to any person affected by the Prohibited Conduct;
- (f) a fine;
- (g) a period of Ineligibility of such duration and on such terms and conditions as the considered appropriate (up to and including indefinite Ineligibility from all Water skiing activities);
- (h) a period of probation/suspended Ineligibility of such duration and on such terms and conditions as is considered appropriate.

8.2 In determining the appropriate sanction and/or risk management measure(s), the following shall be taken into account:

- (a) the seriousness of the offence;

- (b) the context of the particular situation (including, without limitation, whether there is a pattern of inappropriate behaviour or misconduct and the ages of the individuals involved);
- (c) whether the conduct in question was deliberate, reckless, and/or negligent;
- (d) any continuing risk the Participant may pose;
- (e) any mitigating or aggravating factors considered relevant and appropriate.

8.3 BWSW may publish and/or share details of sanctions and risk management measures on a 'need to know' basis, with the safeguarding committee chair of the IWWF and/or any other relevant third parties, in such form and manner, and to such extent, as it deems necessary for the purposes of enforcement and/or compliance and having due regard for the aims and objectives of this Safeguarding Regulation at all times.

8.4 No Participant who is declared Ineligible may, during the period of Ineligibility, train, compete, coach, attend, officiate or otherwise participate or be involved in any capacity in any club, competition, event or activity (other than authorised education or rehabilitation programmes) that is authorised, organised, sanctioned, recognised or supported in any way by BWSW.

8.5 BWSW may (in its discretion) recognise and give effect to sanctions and risk management measures (or equivalent sanctions or measures) of other sports governing bodies or other relevant authorities in respect of safeguarding matters.

9. MISCELLANEOUS

9.1 The Safeguarding Regulation is to be interpreted and applied by reference to the core aim of ensuring the welfare of Protected Persons. Such interpretation and application shall take precedence over any strict legal or technical interpretations. Any documents that may be published by BWSW from time to time to further the aims of this Safeguarding Regulation (for example policy and guidance documents) may be referred to as interpretative aids.

9.2 If the matter giving rise to an allegation of Prohibited Conduct is

- (a) being investigated by any statutory authority, including the police;
- (b) being dealt with under a different/alternative disciplinary procedure (e.g. employment contract in the case of an employee of BWSW); or
- (c) the subject of legal proceedings, legal proceedings have been threatened or BWSW believes that there is a reasonable likelihood that legal proceedings will be commenced

BWSW may decide no further action will be taken until the outcome under (a) – (c) is established at which point a decision will be taken as to whether or not it is appropriate to take any action.

- 9.3 Minor practical or technical points will not serve to invalidate the procedure or any decisions or findings made under the Safeguarding Regulation, so long as the principles of natural justice and fairness are not infringed.
- 9.4 BWSW may share information obtained pursuant to this Safeguarding Regulation with the police and/or other relevant authorities.
- 9.5 Save to the extent that disclosure and/or publication is provided for in this Safeguarding Regulation or is otherwise in accordance with the law, all matters considered under this Safeguarding Regulation, will, so far as practicable, be regarded as confidential and used only for the purposes of the Safeguarding Regulation.
- 9.6 If any part of this Safeguarding Regulation is ruled to be invalid, unenforceable or illegal for any reason, that part will be deemed deleted, and the rest of the Safeguarding Regulation will remain in full force and effect.
- 9.7 Neither BWSW, any person employed by or appointed to assist BWSW, nor any member of the Case Management Group will be liable to any party for any act or omission unless it is actuated by malice or bad faith.
- 9.8 This Safeguarding Regulation was issued on the date on the front of this document ("**Issue Date**") by posting them on the BWSW website. BWSW may amend this Safeguarding Regulation from time to time. Such amendments will come into effect on the date specified by BWSW and posting them on the BWSW website.

APPENDIX 1 - DEFINITIONS

Adult at Risk means any person aged 18 years or over who (i) has needs for care and support (whether or not the local authority is meeting any of those needs) and (ii) is experiencing, or is at risk of, abuse or neglect and (iii) as a result of those needs is unable to protect themselves against abuse or neglect or the risk of it.

Arbitral Tribunal means an arbitral tribunal convened pursuant to the NSP Rules or the Sport Resolutions Arbitration Rules

Bullying (or cyber-bullying if conducted online) means unwanted, repeated and intentional, aggressive behaviour usually among peers, and can involve a real or perceived power imbalance. Bullying may include actions such as making threats, spreading rumours or falsehoods, attacking someone physically or verbally and deliberately excluding someone.

Case Management Group means collectively those individuals appointed by BWSW from time to time to take responsibility for dealing with safeguarding matters which includes the Safeguarding Lead Officer.

Code of Conduct means the Code of Conduct published by BWSW from time to time.

Disciplinary Committee has the meaning ascribed to that term in the Code of Conduct.

Safeguarding and Protecting Children and Young Persons Policy means the policy of that name issued from time to time by BWSW.

Hazing means conduct that subjects another person, whether physically, mentally, emotionally, or psychologically, to anything that may endanger, abuse, humiliate, degrade, or intimidate the person as a condition of joining or being socially accepted by a group, team, or organization. Purported consent by the person subjected to Hazing is not a defence, regardless of the person's perceived willingness to cooperate or participate. Hazing may include: (a) Contact acts: such as beating someone with fists or objects, or physically restraining them; (b) Non-contact acts: such as making someone play drinking games, do humiliating acts, or depriving them of sleep, food, or water (c) Sexualized acts: such as requiring someone to share nude photos or perform sexual behaviours

Issue Date: as defined in Article 9.8.

IWWF means the International Waterski & Wakeboard Federation Limited.

Ineligibility: the Participant being barred from participating in Water skiing activities, as set out more specifically in Article 8.4 and **Ineligible** shall be construed accordingly.

National Safeguarding Panel or **NSP** means the national safeguarding panel of Sport Resolutions.

NSP Rules means the National Safeguarding Panel Rules of Sport Resolutions in force from time to time which are incorporated into this Safeguarding Regulation by reference.

Notice of Charge: as defined in Article 6.1.

Participant: as defined in Article 2.1.

Prohibited Conduct: as defined in Article 3.

Protected Person(s): any person(s) involved in Water skiing in any capacity including (but not limited to) children and Adults at Risk.

Provisional Suspension: a Participant being temporarily barred from participating in Water skiing activities, as set out more specifically in Article 5.5.

Safeguarding Case Management Programme means the safeguarding case management programme supported by Sport England and the National Lottery and administered by LimeCulture Community Interest Company under which Sport Resolutions provides case management assistance to national governing bodies, including BWSW, in relation to matters involving children and Adults at Risk.

Safeguarding Lead Officer or **SLO** means the person with that title who leads BWSW's safeguarding function.

Sport Resolutions means the sports disputes resolution body of that name being a trading name of The Sports Dispute Resolution Panel Ltd - Company No. 3351039.

Sport Resolutions Arbitration Rules means the arbitration rules of Sport Resolutions (which include an appeals arbitration procedure) in force from time to time which are incorporated into this Safeguarding Regulation by reference.

Waterski skiing means all disciplines recognised by BWSW in its articles of association from time to time.

APPENDIX 2

NON-EXHAUSTIVE GUIDANCE AS TO CONDUCT THAT MIGHT CONSTITUTE 'HARM' FOR THE PURPOSES OF THE SAFEGUARDING REGULATION

'Harm' is not a narrow concept and whether or not harm has occurred, or the risk of harm exists, will inevitably be a fact-specific analysis. However, in general terms, 'harm' means ill-treatment or the impairment of health, welfare or development. Harm can be caused directly and indirectly, including by text, e-mail and various social media and other communication platforms.

Abusive Behaviour is always harmful. There are various forms of abusive behaviour, including but not limited to those described under the heading "**Abuse**" in the Safeguarding and Protecting Children and Young Persons Policy i.e.

Neglect

Physical Abuse

Sexual Abuse

Emotional Abuse (including Hazing and Bullying)