

## SWIMMING AUSTRALIA LTD (SAL)

### GENERAL BY-LAWS

These By-Laws are made by the SAL Board under Rule 44 of the SAL Constitution. They are binding on SAL and all Members of SAL. In the event of a conflict between these By-Laws and the SAL Constitution the SAL Constitution will prevail.

#### **GBL1. DIRECTOR NOMINATIONS**

- 1.1. All nominations for a position as Director must be considered and assessed by the Nomination and Remuneration Committee against the assessment criteria adopted by the Board from time to time. A summary of the assessment of nominees is presented to the Board and Members in accordance with the notice provisions for General Meetings in the Constitution. This summary shall be listed in alphabetical order of nominees' surnames.
- 1.2. Any Director, including the President, who stands or intends to stand for re-election at the next General Meeting must resign from the Nomination and Remuneration Committee at least 30 days prior to the calling of nominations. Where the President resigns, the Board will nominate an alternate Committee Chair.

#### **GBL2. ELECTION OF DIRECTORS**

- 2.1. All elections shall be by preferential voting ballot in accordance with Rule 34.1 of the Swimming Australia Constitution. The election process, which will be conducted under the direction of the Chief Executive Officer in accordance with the Constitution, shall be concluded and the election outcome announced to Member Associations prior to the conduct of the relevant General Meeting.
- 2.2. Member Associations will be required to allocate a number to each candidate on the ballot paper, from number 1 for the highest preferred candidate down through the candidate list, with the least preferred candidate on the ballot paper being allocated the highest number. Where there are two vacant positions the two candidates with the lowest vote scores (being the sum of the voting scores allocated by each Member Association) will be elected. Where there are three vacant positions the three candidates with the lowest vote scores will be elected.
- 2.3. In the event of a tied voting score occurring, the tied candidates will be separated by a countback process whereby the tied candidate preferred by the greater number of Member Associations (based on the number allocated to each candidate on the ballot paper) will be elected. Should the countback process fail to separate candidates, the successful candidate or candidates will be determined via lottery to be conducted by the Chief Executive Officer and witnessed by a Member Association representative.
- 2.4. The voting methodology may be by electronic or on-line application with the appropriate levels of security and confidentiality in place. The Chief Executive Officer will advise Member Associations of the proposed voting methodology at the time the notice of the General Meeting is issued.

#### **GBL3. FINA BUREAU MEMBER**

- 3.1. The Board may invite the Australian FINA Bureau Member to attend all Board meetings. The Chairman may ask the member to leave the room if he deems that the member's presence is not desirable during the discussion of any particular agenda item; otherwise, the member may speak to any matter. The member shall not be entitled to vote.

## **GBL4. STANDING COMMITTEES**

### **4.1. Risk and Audit Committee**

4.1.1. There shall be a Risk and Audit Committee of the Board as required by Rule 43.7(a) of the Constitution.

4.1.2. The function of the Risk and Audit Committee shall be to:

- (a) provide advice to the Board on strategic financial matters;
- (b) oversee SAL's corporate governance practices and its ethics and behaviour;
- (c) establish and maintain the internal control framework, in consultation with the auditors, both external and internal;
- (d) oversee and appraise the scope and quality of the audits conducted by both external and internal auditors;
- (e) review all financial reports which require approval by the Board;
- (f) oversee budgeting processes and ongoing monitoring of financial performance to budget;
- (g) oversee the development of an annual Risk Management Plan and ongoing monitoring of strategies and action to mitigate organisational risk;
- (h) oversee the administration of the Swimming Foundation Trust and Swimming Foundation Property Trust, including investment strategies and performance;
- (i) assess policies and procedures which deal with the adequacy and effectiveness of internal controls over business processes;
- (j) maintain open lines of communication with the Board of Directors, external and internal auditors, to exchange views and information and to ensure a clear understanding of each party's responsibilities; and
- (k) review and evaluate approvals of major projects, community investment and initiatives;
- (l) review and evaluate investment options and financial commitments;
- (m) review and evaluate approvals of any material contracts and Agreements;
- (n) review budgets prepared by Management and endorse for Board Approval;
- (o) review and evaluate new vendors / partners;
- (p) review and evaluate major events;
- (q) review and evaluate Capital investments above a certain value;
- (r) at the Committee's discretion, or under instructions by the Board, conduct ex-post audits on major events, projects and capital outlays; and
- (s) any other matters referred to the Committee by the Board.

4.1.3. The membership of the Risk and Audit Committee shall be:

- (a) two Directors appointed by the Board which cannot include the Chairman of SAL; and
- (b) at least two such other persons as the Board will appoint, having regard to the desirability of the Committee having persons with a legal, finance or accounting background.

4.1.4. The Board shall appoint the Chairman of the Risk and Audit Committee who shall have appropriate professional training and skills associated with a legal, finance or accounting background.

#### 4.2. **Nomination and Remuneration Committee**

4.2.1. There shall be a Nomination and Remuneration Committee of the Board as required by Rule 43.7(b) of the Constitution.

4.2.2. The function of the Nomination and Remuneration Committee shall be to review and make recommendations to the Board in relation to:

- (a) the criteria for the assessment of nominees for Director;
- (b) summary of the assessment of nominees for Director;
- (c) Director appointment and retention procedures;
- (d) Board Committee structures and membership appropriate to the needs of SAL;
- (e) changes that the Committee believes to be desirable in relation to the size and/or composition of Board Committees, including rotation policies for members and chairs of the committees;
- (f) programs for enhancing Director competencies;
- (g) the induction program for new Directors and members of senior management, including monitoring of the program's effectiveness;
- (h) Director and Board evaluation policies and processes;
- (i) recruitment, retention and termination policies and processes for the Chief Executive Officer and senior management;
- (j) company policy for incentive arrangements and bonuses;
- (k) the development of:
  - (i) appropriate employment contracts;
  - (ii) policies for incentive arrangements and bonuses; and
  - (iii) other policies in relation to staff recruitment, retention, termination and employment conditions;
- (l) the negotiation of Workplace Agreements where appropriate;
- (m) the adequacy of professional indemnity and liability insurance for Directors and senior management;

- (n) succession plans for the Chief Executive Officer and senior management;
- (o) position descriptions for senior management roles and selection processes;
- (p) remuneration levels and performance goals for senior staff other than the Chief Executive Officer;
- (q) senior staff evaluation policies and procedures;
- (r) the payment of incentives and bonuses for senior staff; and
- (s) any other matters referred to the Committee by the Board.

4.2.3. The membership of the Nomination and Remuneration Committee shall be:

- (a) at least two non-executive Directors selected by the Board; and
- (b) at least one other person as appointed by the Board as the Board sees fit provided that the person appointed must be a member of, or representative of, a Member Association or Affiliate.

4.2.4. The Chief Executive Officer will be invited to, and may attend, all meetings of the Nomination and Remuneration Committee. The Chief Executive Officer shall be excluded from discussions of the Committee in relation to his or her performance or remuneration arrangements at the discretion of the Committee.

#### 4.3. **Business Development and Strategy Committee**

4.3.1. There shall be a Business Development and Strategy Committee of the Board as required by Rule 43.7(c) of the Constitution.

4.3.2. The function of the Business Development and Strategy Committee shall be to review and provide recommendations to the Board in relation to:

- (a) SAL's strategic planning framework and processes;
- (b) management of key commercial relationships;
- (c) management of key stakeholder relationships;
- (d) major sponsorships;
- (e) new business development opportunities and priorities;
- (f) corporate communications and marketing;
- (g) information technology; and
- (h) any other matters referred to the Committee by the Board.

4.3.3. The membership of the Business Development and Strategy Committee shall be

- (a) at least two non-executive Directors of the Board; and
- (b) any other people to be appointed as the Board sees fit.

4.3.4. The Chair of the Business Development and Strategy Committee will be determined by the Board.

- 4.3.5. The President of the Board will be invited to, and may attend, all meetings of the Business Development and Strategy Committee as an “ex-officio” member of the Committee if not already appointed as a member of the Committee.
- 4.3.6. The Chief Executive Officer will be invited to, and may attend all meetings of the Business Development and Strategy Committee.
- 4.3.7. The Business Development and Strategy Committee may otherwise invite any other persons to meetings of the committee as it sees appropriate.

#### 4.4. Integrity Panel

- 4.4.1. There shall be an Integrity Panel as required by Rule 43.7(e) of the Constitution.
- 4.4.2. The Panel may exercise the powers under these General By-Laws in relation to matters referred to, or arising out of a referral to, the Integrity Panel by:
  - (a) the Board;
  - (b) the Chief Executive Officer;
  - (c) the Integrity Officer;
  - (d) Member Association; or
  - (e) a member of the current Australian Swimming Team if the role of Integrity Officer is vacant.
- 4.4.3. Any referral to the Integrity Panel under GBL 4.4.2 must:
  - (a) be in writing;
  - (b) state the matter to be investigated; and
  - (c) be accompanied by all relevant documentary or other evidence that is available to the person referring the matter.
- 4.4.4. A referral to the Integrity Panel under GBL 4.4.2. may only be withdrawn by the Board.
- 4.4.5. The Panel has such powers as are necessary for the Panel to consider, investigate and report to the Board on matters concerning the integrity, probity and trust of the sport of Swimming or the management and operations of Swimming Australia.
- 4.4.6. A referral made under GBL 4.4.2 can be made on any matter including without limitation matters relating to Swimming Australia, its policies and procedures, Directors, teams, Members, athletes, coaches, management, employees, sponsors, stakeholders, volunteers or any other individual representing or purporting to represent Swimming Australia and any matters that involve allegations of:
  - (a) a breach of any Swimming Australia policy, direction, guideline, team agreement or other obligation owed to Swimming Australia;
  - (b) illegal behaviour whether in Australia or overseas;
  - (c) doping;
  - (d) race-fixing and all other forms of corruption;

- (e) breaches of behavioural standards, team agreements and other obligations owed to Swimming Australia;
  - (f) conflicts of interest;
  - (g) gambling; and
  - (h) misconduct and unethical behaviour.
- 4.4.7. The Panel has the power and authority to interview, question and seek any information, documents and other materials that it requires from Swimming Australia and any Swimming Australia Members, athletes, management, employees, sponsors, stakeholders, volunteers or any other individual representing or purporting to represent Swimming Australia. Such persons are deemed to have been instructed by the Board of Swimming Australia to respond to the Panel's enquiries.
- 4.4.8. The Panel is authorised to take such independent professional advice as it considers appropriate subject to approval of the Chief Executive Office (which must not be unreasonably withheld).
- 4.4.9. The Panel has no executive powers with respect to its decisions and recommendations.
- 4.4.10. The Panel must exercise these powers in accordance with these General By-Laws and in accordance with the Constitution of Swimming Australia.
- 4.4.11. The Panel must exercise its powers in accordance with all relevant laws, the principles of natural justice and procedural fairness.
- 4.4.12. The membership of the Integrity Panel shall be:
- (a) two non-executive Directors of the Board; and
  - (b) a suitably qualified and experienced legal practitioner appointed by the Board as the Board sees fit.
- 4.4.13. The Chair of the Integrity Panel will be the legal practitioner appointed by the Board under GBL 4.4.12(b). The Chair must ensure proper records of the Integrity Panel are kept.
- 4.4.14. The Chair may convene such meetings of the Integrity Panel as he or she deems necessary to address any matters referred to the Panel under GBL 4.4.2.
- 4.4.15. The attendance by the Chair and at least one other Panel Member will constitute with a quorum for the purpose of a meeting of the Integrity Panel.
- 4.4.16. The Panel must provide a report to the Board in relation to any referral under GBL 4.4.2 and such report should detail:
- (a) details of the matter referred;
  - (b) any findings; and
  - (c) any recommendations including any referrals to third parties required.

#### 4.5. **High Performance Committee**

- 4.5.1. The High Performance Committee was created under Rule 42.3 of the Constitution.
- 4.5.2. The function of the High Performance Committee shall be to review and provide recommendations to the Board in relation to:
- (a) adoption of and changes to the Committee's Charter;
  - (b) SAL's high performance strategy;
  - (c) management of the high performance program;
  - (d) changes to the overarching standards for selection of swimmers and coaches onto Australian Swim Teams;
  - (e) high performance priorities; and
  - (f) any other matters referred to the Committee by the Board.
- 4.5.3. The functions of the High Performance Committee also include, under delegation by the Board:
- (a) approving the criteria for the selection of swimmers and coaches onto Australian Swim Teams, which are to be consistent with the overarching standards approved by the Board;
  - (b) approving final selections for membership onto Australian Swim Teams; and
  - (c) providing reports to the Board on all decisions made by the Committee on selection criteria and final selections on a timely basis.
- 4.5.4. The membership of the High Performance Committee shall be:
- (a) two non-executive Directors of the Board; and
  - (b) any other person as appointed by the Board as the Board sees fit from time to time.
- 4.5.5. The Chair of the High Performance Committee will be determined by the Board.
- 4.5.6. The Chief Executive Officer will be invited to and may attend all meetings of the High Performance Committee.
- 4.5.7. The High Performance Committee may otherwise invite any other persons to meetings of the committee as it sees appropriate.

#### 4.6. **Technical Swimming Committee**

- 4.6.1. The Technical Swimming Committee was created by the Board under Rule 43.1 of the Constitution.
- 4.6.2. The function of the Technical Swimming Committee shall be to review and provide recommendations to the Board and where appropriate assist the management team, in relation to:
- a) All matters related to the technical rules of swimming as issued by FINA, including their dissemination, interpretation and uniform application in Australia;

- b) Delivery of key outcomes that relate to officiating in the SAL Strategic Plan;
- c) Development and implementation of the National Officiating Framework;
- d) Development and implementation of uniform national programs for the education, assessment and accreditation of technical officials;
- e) Development and implementation of new strategies to attract and retain technical officials in the sport of swimming;
- f) appointment of a sub-committee of three persons to roster technical officials for all SAL swimming meets ensuring that a pool of officials is qualified to maintain and or achieve FINA accreditation and assess technical officials' performance at these meets;
- g) Development and annual review of the protocols and procedures in conjunction with the SAL Events Unit for the conduct of SAL meets to ensure best practice presentation of these meets;
- h) Appointment of officials as FINA accredited referees and starters from qualified Australian referees and starters;
- i) Development of a succession plan to ensure that SAL maintains representation of the FINA Technical Committee;
- j) Sourcing of information from and provide feedback to State Technical Committees;
- k) Any other matters referred to the Committee by the Board.

4.6.3. The membership of the Technical Swimming Committee shall be:

- (a) one non-executive Directors of the Board;
- (b) any other person as appointed by the Board as the Board sees fit from time to time; and
- (c) Australia's delegates on the FINA Open Water and Pool Technical Swimming Committees shall become ex officio members of the TSC.

4.6.4. The Chair of the Technical Swimming Committee will be determined by the Board.

4.6.5. The Chief Executive Officer will be invited to, and may attend all meetings of the Technical Swimming Committee.

4.6.6. The Technical Swimming Committee may otherwise invite any other persons to meetings of the committee as it sees appropriate.

4.6.7. The initial members of the Technical Swimming Committee shall meet within 30 days of appointment and prepare and submit for approval by the Board a charter setting out the proposed operation of the Committee.



## **GBL5. PANELS**

### **5.1. Judiciary Panel**

5.1.1. There shall be a Judiciary Panel for the purposes of conducting investigations and hearings and determining matters referred to it under:

- (a) Rule 19.1 of the Constitution; and
- (b) any other matters referred by the Board or Chief Executive Officer subject to the terms of that referral.

5.1.2. Any referral to a Judiciary Panel under GBL 5.1.1 shall:

- (a) be in writing;
- (b) state the matter to be investigated and/or determined;
- (c) may be accompanied by any documentary or other evidence that is available to the Board or Chief Executive Officer (as the case may be having regard to who referred the matter to the Judiciary Panel).

5.1.3. A referral to the Judiciary Panel under GBL 5.1.1 can only be withdrawn by the Board by way of written notice from the President of SAL to the Chairman of the Judiciary Panel.

5.1.4. Membership of the Judiciary Panel

- (a) The Judiciary Panel shall be constituted by the Board in accordance with this GBL 5.1.4 on an ad-hoc basis as and when required to hear and determine matters referred to it under GBL 5.1.1.
- (b) From time to time the Board shall approve a list of three to five suitably qualified and experienced legal practitioners as being eligible to sit as Chairman of any convened Judiciary Panel.
- (c) The members of a Judiciary Panel, following a referral under GBL 5.1.1, shall be determined by the Board as follows:
  - (i) a legal practitioner from the list under GBL 5.1.4(b) to sit as Chairman of the Judiciary Panel; and
  - (ii) two appropriate persons of high standing within the swimming community with relevant skills and knowledge in that particular matter to sit as members of the Judiciary Panel.
- (d) No member of the Board is eligible to sit on a Judiciary Panel.

5.1.5. Process to be adopted by the Judiciary Panel

- (a) Subject to GBL5.1.5(b), the Judiciary Panel once convened shall conduct any investigation and/or hearing as it sees fit and shall not be bound by the rules of evidence, or unnecessary formality.
- (b) Notwithstanding GBL5.1.5(a), the Judiciary Panel shall:
  - (i) in matters of hearing advise any person likely to be affected by a decision of the Judiciary Panel of the procedure to be adopted by the Judiciary Panel at or before the commencement of the proceedings; and

- (ii) ensure that any matter for hearing referred to it commences to be heard no less than 14 days and no more than 28 days from the receipt of the referral unless the Judiciary Panel considers it otherwise appropriate and the persons likely to be affected by a decision of the Judiciary Panel (but not including SAL) agree.
- (c) The Chief Executive Officer shall assist the Judiciary Panel as and when requested by the Judiciary Panel.

#### 5.1.6. Penalties

- (a) If the Judiciary Panel considers the allegations sustained the Judiciary Panel may impose such penalty as it considers appropriate in accordance with GBL5.1.5(b). If the Judiciary Panel considers the allegations not sustained, the referral shall be dismissed.
- (b) Without limiting GBL5.1.6(a), the penalties which may be imposed by the Judiciary Panel include:
  - (i) a reprimand;
  - (ii) suspension, of such activities, on such terms and for such period as is seen fit;
  - (iii) exclusion from a particular activity, event or events;
  - (iv) expulsion as a Member of SAL;
  - (v) past Members not being eligible or permitted to renew their membership with SAL;
  - (vi) a fine or fines, imposed in such manner and in such amount as is reasonable in all the circumstances of the matter;
  - (vii) such combination of any of the above penalties as is seen fit; or
  - (viii) for a doping offence the provisions of FINA rule DC10 shall apply.
- (c) A Judicial Panel shall provide the Board, through the Chief Executive Officer, with a written statement of:
  - (i) the outcomes of any investigation including any relevant recommendations; or
  - (ii) any decision it makes and any penalties it imposes under this GBL 5.1.6.
- (d) On exhaustion of all appeal procedures available to a Member or past Member, whether by lapse of time or otherwise, notice of any penalty imposed shall be given by the Chief Executive Officer to all Member Associations, and shall be recognised by all Member Associations immediately upon receipt of such notice by the Member Associations.
- (e) Where a Member is suspended under GBL 5.1.6(b), membership and representation rights and privileges in SAL shall be forfeited during the period of such suspension. For a past Member this takes effect by the past Member being ineligible to apply for, or be granted, membership.

- (f) Where a Member is expelled under these Rules membership and representation rights and privileges in SAL shall be forfeited immediately and membership shall cease. Rule 16 of the SAL Constitution and any relevant provisions of the constitution of the Member Association shall apply.

#### 5.1.7. Ongoing participation

- (a) Subject always to the SAL Constitution and GBL5.1.7(b), a person the subject of a matter referred to the Judiciary Panel may continue to participate in the sport, pending the determination of the proceedings (including any available appeal) unless the Board decides such continued participation is inappropriate having regard to the matter at hand.
- (b) A competitor for whom there has been an adverse anti-doping report on the A Sample may be provisionally suspended by the Chief Executive Officer in consultation with the President without a hearing, after consultation with the Australian Sports Anti-Doping Agency, until a hearing before the Judiciary Panel can be made following the test of the B Sample.

#### 5.1.8. Appeal

- (a) A decision of a Judiciary Panel under GBL5.1.1(a) may be appealed to the Court of Arbitration for Sport. The Code of Sports-related Arbitration shall apply to any such appeals.
- (b) A decision of a Judiciary Panel under GBL5.1.1(b) is an appeal decision and is not subject to further appeal.

### **GBL6. SELECTION PANEL**

- 6.1. The Director, High Performance (“DHP”), shall convene a Selection Panel for the purposes of selecting all Swimming Australia teams.
- 6.2. The DHP shall submit to the Board (through the Chief Executive Officer) for approval a charter setting out the proposed composition, functions and operation of the Selection Panel.
- 6.3. The DHP in consultation with the Selection Panel shall submit to the Board (through the Chief Executive Officer) for approval selection criteria for all Swimming Australia teams.

### **GBL7. MANAGEMENT ADVISORY COMMITTEES**

- 7.1. Without limiting the Chief Executive Officer’s general power to create management advisory committees as he or she sees fit from time to time, the Chief Executive Officer shall convene the following management advisory committees for the purposes of providing advice and recommendations to the Board (through the Chief Executive Officer):
  - 7.1.1. Coach Accreditation and Review Management Advisory Committee.
- 7.2. The Chief Executive Officer shall submit to the Board for approval a charter setting out the composition, functions and operation of each Management Advisory Committee set out in GBL7.1.
- 7.3. The Chief Executive Officer shall also submit to the Board for approval a recommendation on the appointment of a Chair for each Management Advisory Committee set out in GBL7.1.