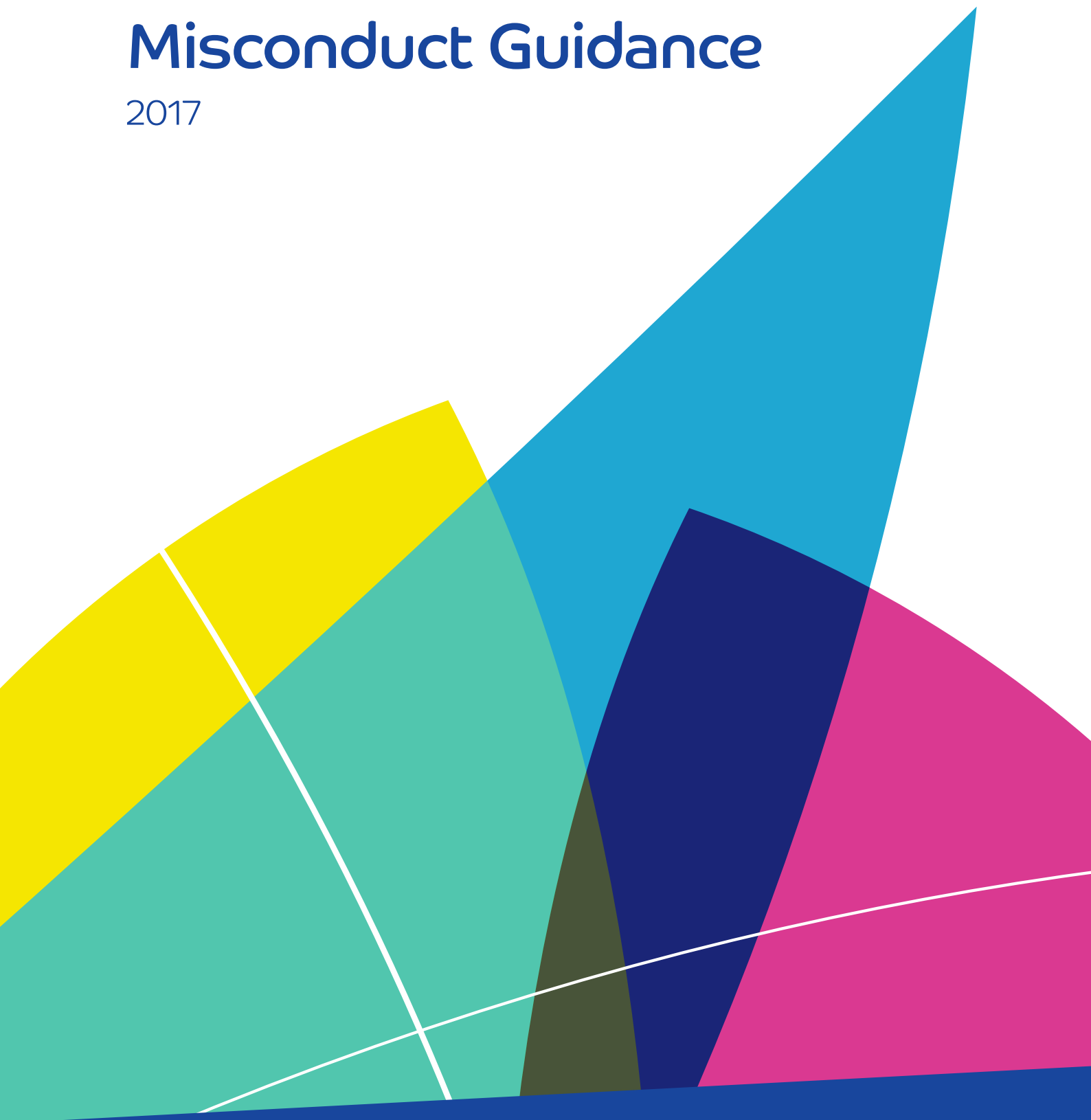


Misconduct Guidance

2017



MISCONDUCT GUIDANCE

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INTRODUCTION

Dealing with misconduct is probably the least pleasurable part of the work of race officials but an important part that must not be ignored. There is considerable evidence that misconduct in the form of bad behaviour has a detrimental effect on our sport, even causing some to choose another way to spend their time. I believe it is very important for our sport that we deal with misconduct promptly, fairly and following established rules and practices. I believe also it is important for all officials to support those who find themselves needing to manage such issues. There is a lot of help available beyond this Guidance, please ask.

This guide is not just for international race officials but is for all of those who find themselves with a misconduct problem to solve. It will also be of value to our sailors and support persons as it tells them what to expect from race officials dealing with these issues.

While a significant effort has been made to make the guide as comprehensive, accurate and useable as possible, it is inevitable that it will evolve over time. Please do not hesitate to contact World Sailing if you have ideas how that might be achieved.

World Sailing wishes to express its appreciation to the Royal Yachting Association for its use of its Misconduct Guidance in the preparation of this guide.

John Doerr
Chairman

**World Sailing Joint Working Party
on Rule 69 & Judicial Matters**

This guidance is intended as a complete reference work for all race officials – in particular, judges and protest committees. It is based on the World Sailing Racing Rules of Sailing 2017 – 2020.

There is no substitute for knowing the procedures in the rules and knowing when to act to confront misconduct, but this guidance and the advice in it is a useful starting point. You should also be aware of the new World Sailing Cases on misconduct introduced since 2017.

This guidance has been produced and will be maintained by the World Sailing Office in consultation with a joint working party of the World Sailing Constitution, Race Officials and Racing Rules Committees.

Any comments and feedback are gratefully received.

Jon Napier
Director of Legal Affairs & Governance

June 2017

DISCIPLINARY AUTHORITIES

1 Protest Committees

- 1.1 In relation to misconduct, protest committees fulfill an important role at all events. The protest committee must hear all protests delivered under rule 2 and also can investigate and hold hearings into misconduct under rule 69.
- 1.2 Protest committees must act with fairness and propriety at all times. Whilst all race officials have a role to play in challenging and dealing with misconduct, it is the protest committee that is at the centre of this process.
- 1.3 When a matter is referred to a Member National Authority for further action or investigation, the MNA should look principally to the protest committee to report on what happened at an event. It is therefore vital the protest committee carries out its fact-finding duties carefully and thoroughly.

2 Member National Authorities (“MNAs”)

- 2.1 Each World Sailing MNA is the governing body for sailing in its country. In the disciplinary system, there can be two MNAs involved: the MNA of the venue and the MNA of the competitor.
- 2.2 The role of the MNA of the venue in relation to misconduct is to hear any appeals from the decision of a protest committee under rule 70. The MNA of the venue may also have made prescriptions to the rules and have issued its own best practice and guidance to race officials and competitors.
- 2.3 Since 2017, the MNA of the venue no longer considers reports concerning competitors (unless of course the competitor is from that MNA).
- 2.4 The MNA of a competitor is responsible for considering reports made to it under rules 69.2 and 69.3 for further disciplinary action.
- 2.5 It is up to each MNA to decide how to structure its own disciplinary processes, subject to World Sailing’s rules and regulations. It is important that MNAs have appropriate powers and procedures in place to undertake this responsibility.
- 2.6 MNAs have the power to impose a greater range of penalties such as suspending a competitor from competition, banning them for a set period (including life) from events within its jurisdiction and suspending their Competition Eligibility and World Sailing Eligibility.

3 World Sailing

- 3.1 World Sailing has a number of responsibilities in relation to misconduct:
 - 3.1.1 It makes the Racing Rules of Sailing and issues Cases providing authoritative interpretations of the RRS.
 - 3.1.2 It issues guidance in relation to misconduct, rule 69 and the disciplinary process in general.

- 3.1.3 It issues sanction guidance, which explains what penalties may be suitable for certain situations.
 - 3.1.4 In certain circumstances it hears appeals from the disciplinary decisions of MNAs.
 - 3.1.5 In relation to major international events, it appoints event disciplinary investigating officers and is the sole authority after the event for deciding whether further disciplinary action is appropriate.
- 3.2 World Sailing has the power to impose a greater range of penalties such as suspending a competitor from competition, banning them for a set period (including life) from events within its jurisdiction and suspending their Competition Eligibility and World Sailing Eligibility.
- 3.3 The disciplinary functions of World Sailing are overseen by its Judicial Board.
- 3.4 The contents of the Racing Rules of Sailing, Cases and this Guidance are overseen by the Racing Rules Committee and its Joint Working Party on Rule 69 & Judicial Matters.

POLICY & JURISDICTION

4 When should rule 69 be used?

- 4.1 Rule 69 should be used when there are allegations of behaviour which are unacceptable and contrary to the spirit in which the sport should be conducted. The sport should not tolerate bad behaviour, and action under rule 69 is a potent way of dealing with this problem. Turning a blind eye to misconduct only serves to damage the enjoyment of those who behave properly, which in turn puts people off participating in the sport.
- 4.2 It is the responsibility of all race officials to deal with misconduct in an appropriate and timely manner.
- 4.3 World Sailing undertook a thorough review of the rules dealing with misconduct between 2014 and 2016. The 2017 – 2020 RRS contain significant changes aimed at giving greater powers to protest committee and greater flexibility with how misconduct can be dealt with at an event.

5 Who is subject to rule 69?

- 5.1 In this Guidance, we use the term ‘competitor’ for brevity. Under the RRS, a competitor is a person who races or intends to race in an event. In addition to competitors, rule 69 covers the boat owner and support persons.
- 5.2 “Support person” is a new defined term in the RRS and means any person who:
 - 5.2.1 provides, or may provide, physical or advisory support to a competitor, including any coach, trainer, manager, team staff, medic, paramedic or any other person working with, treating or assisting a competitor in or preparing for the competition, or
 - 5.2.2 the parent or guardian of a competitor.
- 5.3 In addition to the definition of support person, other persons may become subject to the RRS (and therefore to rule 69) through their agreement to other documents (such as the rules of a club or other event documentation).
- 5.4 For ease of reference, this Guidance refers to competitors instead of ‘competitors and support persons’ unless the context requires otherwise.

6 The extent of rule 69 jurisdiction (the time and location of misconduct)

- 6.1 The jurisdiction of the protest committee under rule 69 extends from the earlier of:
 - 6.1.1 the time the competitor arrives at the venue for the purpose of the event; or
 - 6.1.2 the time the competitor registers their intention to enter and be bound by the rules;and continues through till their departure from the venue after racing (but may extend beyond this time – see section 6.4).

- 6.2 If the competitor can readily be associated with the event, or if there is an incident in a public place between competitors, or if several competitors join together in bad behaviour, then the protest committee can take action.
- 6.3 The important question is whether the behaviour of the competitors can reasonably be said to be associated to the sport or to the event. For example, if a club or event receives a complaint from someone who is not associated with the event about the behaviour of one or more competitors, this indicates that a connection has already been made and the sport in general (and the event in particular) may have been brought into disrepute.
- 6.4 Misconduct occurring after the end of the event, possibly even away from the event location, could be considered under rule 69 if sufficient association to the event is established.

7 Types of behaviour justifying rule 69 action

- 7.1 All behaviour must be considered in context – some types of behaviour should be treated as ‘zero-tolerance’ issues, others (such as bad language) require consideration of the context and nature of the event.
- 7.2 It is for the whole protest committee to consider this however – what one race official perceives as acceptable may be regarded by others as clear misconduct.

8 Interaction with teams, squads and training processes

- 8.1 All competitors must be treated equally. Membership of (or potential selection to) a national or regional team or squad does not affect the role of the protest committee and are irrelevant considerations when considering action under rule 69.
- 8.2 Most MNAs will adopt the policy that an adverse rule 69 hearing will not automatically worsen a competitor’s future prospects but they must know if they commit misconduct at an event in order that their suitability for selection can be properly assessed.
- 8.3 Therefore, a protest committee must not allow future decisions on a competitor’s prospects to affect how they treat him or her at an event.

MISCONDUCT

9 What is Misconduct?

- 9.1 Misconduct is defined by rule 69.1(a) as being conduct which:
 - 9.1.1 is a breach of good manners, sportsmanship or unethical behaviour; or
 - 9.1.2 conduct that may bring the sport into disrepute.
- 9.2 There is no longer any requirement for misconduct to be 'gross misconduct'. This means the level at which conduct becomes misconduct is much lower than under previous editions of the rules.
- 9.3 This has been a deliberate policy decision of World Sailing and intended to ensure a greater range of bad behaviour is addressed by protest committees. In order to ensure that competitors are still treated appropriately and proportionately, greater flexibility has been given to protest committees and other disciplinary bodies.

10 Examples of Misconduct

- 10.1 All cases must be judged on the specific facts of a situation and bearing in mind all relevant circumstances.
- 10.2 The following are examples of misconduct. They are not exhaustive.
 - 10.2.1 Engaging in any illegal activity (e.g. theft, assault, criminal damage)
 - 10.2.2 Engaging in any activity which brings the sport into disrepute
 - 10.2.3 Bullying, discriminatory behaviour and intimidation
 - 10.2.4 Physical or threatened violence
 - 10.2.5 Deliberate damage or abuse of property (including a boat)
 - 10.2.6 Deliberately disobeying the reasonable instructions of event officials
 - 10.2.7 Repeated breaches of rule 2
 - 10.2.8 Inciting others to break rule 2
 - 10.2.9 Deliberately breaking a racing rule with the intention of gaining an advantage
 - 10.2.10 Deliberate interference with another competitor's equipment
 - 10.2.11 Repeating a measurement offence (intentionally or recklessly)

10.2.12 Lying to a hearing

10.2.13 Other forms of cheating such as falsifying personal, class or measurement documents, entering a boat known not to measure, missing out a mark to gain places etc.

10.2.14 Foul or abusive language intended to offend (see below)

11 Foul or abusive language

11.1 Bad language (including that not directed towards an official) must be carefully judged in the context.

11.2 If you are uncomfortable with the language being used, then action should be taken. It is quite proper for clubs and organisers to make clear before an event that the use of inappropriate language will lead to rule 69 action. If the organisers have made this statement, then the protest committee should be prepared to enforce the standards expected.

11.3 Equally, foul or abusive language at youth or junior events should not be tolerated. Events which are televised or streamed live should also not tolerate bad language.

11.4 However, if an event or club has tolerated such language in the past, then a single incident of bad language should not trigger rule 69 action. This is not to condone such a language, but World Sailing supports the principle that clubs and events must set and improve their own standards.

11.5 Foul and abusive language towards race officials should be considered under the dissent guidance found in Appendix F.

MAKING A REPORT

12 Who may make a report?

- 12.1 A report alleging misconduct can be lodged by any person (who need not be a competitor). This can include:
- 12.1.1 the race committee, or one of its members;
 - 12.1.2 the protest committee, or one of its members;
 - 12.1.3 spectators;
 - 12.1.4 passing cruising boats;
 - 12.1.5 local residents; or
 - 12.1.6 the host club (if not already the organizing authority).

13 Form of report

- 13.1 There is no definition of what a report is. It may be a written or oral complaint. However, it is preferable that the report is put into writing. If a report is made orally, then the recipient should make a full written note of it as soon as possible and then sign and date/time the note.

14 With whom should the report be lodged?

- 14.1 If a protest committee (or international jury) has already been appointed, then the report should be lodged with it. However, if the event is a major international event (as defined by Part C of World Sailing Regulation 35), then the report must be lodged with the Event Disciplinary Investigating Officer (it cannot be considered by the international jury).
- 14.2 The protest committee should involve the organizing authority at the earliest opportunity, as the hearing might better be conducted in front of a different or strengthened protest committee. It is for the organizing authority to appoint the protest committee who will conduct any rule 69 hearing.
- 14.3 If no protest committee has been appointed, the report should be lodged with the organizing authority, which should then appoint a protest committee. Once appointed, the protest committee should be given the report to consider.

15 Reports lodged with organizing authorities/clubs/other authorities

- 15.1 If a report is lodged with the organizing authority, club or race committee, there is no obligation on it to refer it to a protest committee. However it is firmly recommended that they do so.
- 15.2 It may be appropriate for a report also to be lodged with a host club or another authority (such as a class association etc.) for action under their own disciplinary processes.

- 15.3 Action under rule 69 does not preclude action by a club or other body and vice versa. However the powers of a club (which will include the suspension or removal of membership) are unlikely to be powers available to the protest committee.
- 15.4 At an event organised by a club or a class, it may be prudent and helpful for the protest committee chairman to inform a relevant official (for example a flag officer or responsible member of the class committee) of a potential rule 69 hearing. A constructive dialogue between race officials and the club/class is important to maintain at all events: the club/class may be able to give important contextual information and inform the committee of the class's disciplinary ethos.
- 15.5 It is also important that event organizers are not caught unaware by a rule 69 decision, particularly at the end of the event. However, any information given to them should be limited to the identity of the competitor and boat involved and only to those who may need to know such information. Under no circumstances should event organizers be permitted to influence the protest committee's decisions.
- 15.6 It may be that the protest committee considers that the misconduct is best left to the club or class to deal with under their own disciplinary procedures. The committee must be confident that the club or class will take real steps to address the misconduct, as once the event ends, it will be unable to go back and investigate if matter has not been dealt with.
- 15.7 Remember, it is inappropriate to discuss the specifics of a case with anyone outside the protest committee. The committee should also be wary of being told too much about the background of the competitor as this may lead it (inadvertently) to consider irrelevant information during a hearing.

ROLE OF THE PROTEST COMMITTEE

16 Action by the protest committee acting under its ‘own observation’

- 16.1 Rule 69.2(b) allows a protest committee to call a rule 69 hearing without a report being filed if the protest committee believes that misconduct may have been committed based on its own observations.
- 16.2 This observation can include information acquired during a normal protest or redress hearing (whether or not the protest/request is valid) or anything seen or heard by members of the protest committee ashore or afloat.
- 16.3 It is recommended that the conduct observed is written down by way of report and submitted to the full protest committee for consideration.

17 Investigation of a report

- 17.1 Before deciding whether to call a hearing, the protest committee can appoint a person or persons to conduct an investigation before it makes any decision (see rule 69.2(c)). If an investigator is appointed from the protest committee members, that person cannot form part of the protest committee considering the matter.
- 17.2 An investigator must record all information he gathers and should ideally keep a written log/index of the evidence gathered. Under rule 69.2(d) all relevant information must be disclosed to the protest committee – whether the information is favourable or unfavourable to a potential case. If a hearing is called, this information must be disclosed to the parties as well.
- 17.3 Investigators are advised to audio-record any interviews (with the permission of the person being interviewed). If permission is refused (or recording equipment is not available), then a statement should be taken from the person which details the questions asked and their answers (as near verbatim as possible). The interview should be asked to check the statement at the end and then sign and date it to show it is an accurate statement.
- 17.4 For Disciplinary Investigating Officers (“DIOs”) appointed by World Sailing, they have greater powers of evidence collection as set out in Regulation 35.3.3 – 35.3.11. In some cases, refusal to comply with a DIO’s request for information is a separate offence of misconduct under Regulation 35.

18 Consideration of a report

- 18.1 Once the report has been lodged, the protest committee must consider whether or not to act on it. The normal position is that the protest committee must decide whether or not to call a hearing.
- 18.2 If an investigator has been appointed, it would be appropriate for the investigator to make a recommendation to the protest committee as to whether a hearing should be called. The protest committee is not bound by the investigator’s recommendation and must exercise its own independent judgement on the matter.

- 18.3 In deciding whether or not to call a hearing, the protest committee has complete discretion under the rules. However, World Sailing recommends that the protest committee ask itself two questions:
- 18.3.1 Based on the information available, is there a realistic prospect that a finding of misconduct would be made?
 - 18.3.2 Is it in the interests of the sport to call a hearing?
- 18.4 In most cases, protest committees should only decide whether to call a hearing after an investigation has been completed and all the available evidence has been reviewed.
- 18.5 Protest committees should only take the decision to call a hearing when they are satisfied that the broad extent of the potential misconduct has been determined and that they are able to make a fully informed assessment. If the protest committee does not have sufficient information to take such a decision, the investigation should proceed and a decision taken later on whether to call a hearing.

19 “Realistic prospect” test

- 19.1 This is the first stage in the decision to call a hearing. The protest committee should be satisfied that there is enough evidence to provide a realistic prospect that a finding of misconduct would be made if the case went to a hearing.
- 19.2 The protest committee should consider what evidence is available, how it can be used and how reliable and credible it is. It must also consider what the competitor’s case may be and how that is likely to affect the case.
- 19.3 The "realistic prospect" test means taking an overall view of the evidence and considering whether the evidence, if it was all found in a hearing to be credible and correct, would mean the competitor had committed misconduct. It means the protest committee, having considered the evidence available, considers there is a genuine possibility that the competitor has committed misconduct.
- 19.4 It does not mean the protest committee should only proceed if it is sure that the competitor will be found to have committed misconduct. That is not its function at this stage. It is reasonable and to be expected that at a hearing the protest committee will examine the evidence in greater depth and also have the benefit of the competitor’s evidence. The ‘realistic prospect’ test only means that there is a possibility misconduct has occurred, that possibility is real and not fanciful or far-fetched, and that the competitor is involved.
- 19.5 If the protest committee decides that there is no realistic prospect of misconduct being proven, it should not call a hearing unless it considers it likely that the hearing will produce new evidence for it to consider. It is unfair to a competitor, and an inappropriate use of time and resources, to proceed with a hearing when the evidence available cannot support a finding of misconduct at this stage.

20 “Interests of the sport” test

- 20.1 It is essential to the healthy development of the sport that appropriate sanctions be imposed on competitors guilty of misconduct.

- 20.2 In addition, rule P2.3 requires the protest committee to consider calling a rule 69 hearing when a boat fails to retire after a third 'yellow flag' penalty under rule 42. It is also an option in the event of a breach of the World Sailing Advertising Code.
- 20.3 However, neither a hearing under rule 69 nor a protest under rule 2 (see below) may be the best way to deal with every problem, particularly for:
- 20.3.1 non-malicious excess aggression arising from youth or inexperience of the sport (see Appendix L), or for other justifiable reasons; or
 - 20.3.2 an isolated instance of knowingly having broken a rule without intent to do so, but not then taking a penalty.
- 20.4 A protest committee can ask a competitor to appear before it, make it clear to the competitor that his behaviour is unacceptable, noting the Basic Principle, Sportsmanship and the Rules and rule 2, Fair Sailing. This is not a hearing under rule 69, even though the effect may be to give an informal warning as to future conduct that, if repeated, might give rise to a hearing under rule 69. For youth and juniors, see Appendix L.
- 20.5 In normal cases it will be in the interests of the sport to call a hearing and have protest committee make a decision on the allegations. This is particularly the case with allegations of serious misconduct, where there has been an impact on the event or other competitors, or where the potential culpability of the competitor is high.

21 Interaction between rule 2 and rule 69

- 21.1 The protest committee must be aware of the interaction between rule 2 and rule 69. For detailed guidance on this topic please see Appendix G.

22 Composition of a protest committee for rule 69 hearings

- 22.1 Under rule 69.2(a), the protest committee must consist of at least three people, to be appointed by the organizing authority or the race committee in the normal manner under rules 89.2(b) and 91.
- 22.2 If the protest committee has appointed an investigator to conduct an investigation, this person cannot be a member of the protest committee (rule 69.2(c)) considering the matter from that point onwards. This includes considering whether or not to call a hearing based on the investigator's findings. The investigator can take part in other hearings as normal.
- 22.3 From the moment the investigator is appointed, the protest committee should only meet with him to discuss the case in a formal meeting with all members of the protest committee considering the matter present.
- 22.4 If the matter that is the subject of the hearing is potentially controversial within a club, or if it is difficult finding members ready to serve, it may be sensible to seek at least one member (particularly the person who is to chair the hearing) from outside the club.

23 Protest committee witnesses

- 23.1 It is common for the person seeing the alleged conduct to be a member of the protest committee already. This can lead to the question of whether the person should sit on the protest committee dealing with the rule 69 report.

- 23.2 There is no conflict or requirement to stand down if the protest committee was already established, and with that person as a member of it, at the time of the alleged misconduct.
- 23.3 However, when the protest committee remains properly constituted (with at least three people) without that person being a member, it is preferable for that member to stand down for the hearing.
- 23.4 If that person happens to be the chairman, it may be appropriate to hand over the chair, even if the person remains on the protest committee. This would be especially appropriate if the behaviour being investigated was directed at the protest committee member concerned. In addition, if a new protest committee has to be set up, any person to be called as a witness should not be a member of the committee.
- 23.5 If the right of appeal has been denied, then it is important that the committee remains properly constituted.

PROCEDURE

24 Preparing the written notification

- 24.1 The competitor must be given written notification of the fact a hearing is to occur, the alleged misconduct and the time/place of the hearing. If an investigator was appointed by the protest committee, then all material gathered by him must be given to the parties to the hearing (rule 69.2(d)).
- 24.2 An existing protest form - even if alleging rule 2 breaches - will not meet the requirements for written notification. A new notice must be prepared.
- 24.3 World Sailing recommends the model wording in Appendix K for the written notice.
- 24.4 The written notice should state the alleged specific act or acts of misconduct. It is not sufficient to state that the person committed an act of misconduct by committing a breach of good manners, without saying what the misconduct is. The description of the misconduct should be specific.
- 24.5 For example, it is insufficient to state that a competitor stated that a decision of a protest committee is wrong, as doing so is not misconduct. The notice should state more information such as *“John Smith stated in a loud voice at the hearing immediately after the decision was announced that the decision was wrong and called the members of the protest committee in a loud voice idiots and that they have no clue what they are doing”*.
- 24.6 Where foul language is used, the notice should either quote the language used or describe it in terms such as *“using vulgar language indicating sexual intercourse”*. Do not merely say that the competitor used “insulting language” without quoting the language or paraphrasing the language.
- 24.7 A good test is whether an unbiased outsider will understand the notice and would agree that the alleged conduct in it is misconduct.
- 24.8 The notice should also allege the time, place and identity of other persons involved insofar known.
- 24.9 It is preferable to be specific regarding the act of misconduct so that there is no possible misunderstanding by the competitor. Remember that a finding at the end of the hearing cannot be of misconduct except that alleged in the notice. If the evidence at the hearing differs materially from that alleged in the notice, the hearing should be adjourned to give a further written statement of allegations and time to prepare. An alternative is to inform the competitor or other person that a finding might be made in respect of this additional misconduct, and ask whether he or she requires additional time to prepare and gather evidence in this regard. It should be recorded that this was done and this record should form part of the report made in terms of rule 69.2(j).

25 Reasonable time to prepare/time of hearing

- 25.1 Rule 63.2 requires that the competitor must be allowed reasonable time to prepare for any hearing.

- 25.2 When misconduct is learned of in a protest hearing, particularly if the facts are already well established for the purpose of rule 2, it would be appropriate to proceed directly to a rule 69 hearing once the written notification has been given to the competitor.
- 25.3 If the alleged misconduct occurs during a regatta, a hearing called for the same or following day will usually be satisfactory. It is unfair and inappropriate to leave serious allegations unheard for several days.
- 25.4 Misconduct occurring on the last day of a regatta (whether before or after prizegiving) needs a hearing that day if at all possible.
- 25.5 If a competitor asks for more time to prepare, then this should be granted unless reasonable time has already been given. The protest committee should normally refuse to grant extra time if this would extend the hearing beyond the end of the event. However, if it is not possible to grant extra time before the end of the event and the committee feels the competitor must have extra time to prepare, then a hearing cannot be held and a report should be submitted to the MNA of the competitor to act under rule 69.2(k) after the event.

26 Representation

- 26.1 Under rule 69.2(e)(2), a competitor is entitled to be represented at any hearing and to have an advisor with him. This should be encouraged as it will prevent false accusations from an upset penalized competitor concerning the conduct of the hearing.
- 26.2 The competitor can be represented and advised by anyone, including a friend, coach, parent or lawyer. That person can advise the competitor as to how to answer questions, can question witnesses and can sum up in favour of the competitor.
- 26.3 However, the competitor must answer any questions put to him/her personally. They cannot be answered on his behalf.
- 26.4 The chairman must be someone who is capable of firmly controlling the hearing and maintain decorum.

27 Attendance by third parties/witnesses

- 27.1 Only a party to the hearing (as defined), and any representative or advisor attending under rule 69.2(e)(2), is entitled to be present throughout. There is nothing in the rules preventing the committee from allowing observers to be present (subject to the normal conditions attached to observing protest hearings). However, the committee must consider the personal nature of allegations under rule 69 and it would normally be appropriate to hold a closed hearing.
- 27.2 The identities of witnesses supporting the allegations must be established before the hearing, and steps taken to ensure their presence.
- 27.3 Witnesses are not permitted to question the competitor unless they are also a member of the protest committee.

28 Objections to the protest committee

- 28.1 The competitor should be asked at the start of the hearing (after being introduced to all the members of the committee) whether or not he has any objection them.

- 28.2 A person with a conflict of interest (as defined in the RRS) should not be a member of the committee and neither should anyone who has had in the past strong individual disagreements or animosity with the competitor. However, the provisions of rule 63.4(b) apply to the hearing and the protest committee may proceed if one of its members has a conflict of interest (if the criteria in that rule are satisfied).
- 28.3 A person is not prevented from being a member of the protest committee because they witnessed the alleged misconduct occurring. However, they must still comply with rule 63.6.
- 28.4 Any objection (and the committee's decision on it) must be recorded.

29 Conducting the hearing

- 29.1 The hearing must be conducted under the normal procedures for hearings that apply - rules 63.2, 63.3(a), 63.4 and 63.6 as modified by rule 69.2(e).
- 29.2 In addition, it is vital that a record is kept as near as verbatim as possible of the procedure, questions, answers and statements. This task should be delegated to either a member of the committee or (preferably) to a secretary.
- 29.3 It is increasingly common practice to audio record the hearing. This can be done provided that all persons in the hearing (including witnesses who may attend for only part of it later) are informed that it is being recorded. The recording should not include any private deliberations of the protest committee. Access later to the recording is a decision of the protest committee – no party has an automatic right to a copy of it.
- 29.4 The protest committee should follow the checklist in Appendices C or D (whichever is relevant) when conducting the hearing.

30 Mitigation

- 30.1 If the protest committee find that misconduct occurred, it should reconvene the hearing and inform the competitor of its findings. It should then ask the competitor if they wish to say anything before the committee considers whether or not any penalty should be imposed (i.e. ask for mitigation).
- 30.2 It is not recommended to ask the competitor if they wish to apologise but they should be given an opportunity to do so. Apologies should be given voluntarily if they are to have any meaning. However a sincere expression of regret and apology should be carefully considered by the committee.

31 Warnings

- 31.1 Competitors usually take warnings seriously. If the protest committee believes from the demeanour of the competitor at the hearing that a warning would not be heeded, then it should penalize instead.
- 31.2 If the competitor's boat has already been given disqualification for breaking rule 2, and if it were thought that this is sufficient punishment, then a warning would be appropriate.

32 Penalties beyond a warning

- 32.1 These are set out in rule 69.2(h). One or more penalties can be used in combination.
- 32.2 If the misconduct was committed by a competitor or the owner of the boat in question, then the protest committee may penalize the boat by changing her score in one or more races, or disqualify it. The protest committee has the discretion to decide whether a disqualification is excludable or not.
- 32.3 Individuals can be excluded from competing in a set number of races at the event or an individual can be excluded from the event or the venue and have any privileged or benefits connected to the event removed.
- 32.4 Disqualification from a race that has already been sailed would be appropriate if the misconduct occurred during that race. In order for this to be reflected in the score, the boat must also be disqualified from that race. The protest committee must decide whether the disqualification is not excludable and must be counted towards the results of the series. The decision as to whether the disqualification is excludable is part of the protest committee's penalty (i.e. the more serious the misconduct, the more likely it is the disqualification must not be excluded).
- 32.5 If a competitor is excluded from races not yet sailed, the effect that this has on the boat's participation in future races will depend on the rules applicable to crew substitution at the event. Disqualification of the boat from future races would be appropriate when there was serious misconduct during a race either by the person in charge or by more than one crew member.
- 32.6 A combination of competitor exclusion from later races and boat disqualification from previous races is also permitted
- 32.7 In serious cases, a rule 2 disqualification (which can only be for the race concerned) might quite properly be followed by a rule 69 disqualification for later or all races.
- 32.8 When misconduct occurs after the last race of a series, there is now nothing from which a competitor can be excluded, and so the only option may be to disqualify the boat concerned.
- 32.9 The maximum penalty that can be imposed by the protest committee is exclusion or disqualification from the whole regatta or series, unless there is some other action possible within the protest committee's jurisdiction. There is no authority to impose a penalty relevant to any other event or series (i.e. one covered by a separate notice of race), even if it is organised by the same organizing authority. The protest committee may recommend to the organizing authority that the boat or competitor's entry not be accepted in future (under RRS 76) but this is only a recommendation and cannot be enforced on the organizing authority.

33 Penalties: other action within the protest committee's jurisdiction under the rules

- 33.1 It could be appropriate (rather than to disqualify a boat or exclude the competitor) to penalize by worsening a boat's points score in a race or in the series – a form of 'negative redress'. Some events are scored on overall elapsed or corrected times, often over a number of legs, and it is against the policy of the event that boats are disqualified. Instead, boats are penalized in protests, not by disqualification, but by the award of time penalties. In such an event, a rule 69 hearing might result in a very heavy time penalty for a boat rather than exclusion of a competitor or a boat.

- 33.2 It may also be appropriate for the protest committee to send a report of its findings, as well as to the national authority, to any club or sailing body of which the competitor is a member, and the fact that the protest committee has acted and the national authority may also take action does not preclude any other body then taking action within its jurisdiction.
- 33.3 Taking some other action within the protest committee's jurisdiction may be instead of exclusion or disqualification, or it can be additional.
- 33.4 When a competitor freely and sincerely offers an apology, it is appropriate for the apology, as well as being made directly to anyone who was affected by the misconduct, to be put in writing and posted on the official notice board.
- 33.5 A voluntary apology is not a penalty, and it might lead to the protest committee more towards a warning than penalization.
- 33.6 However, apologies must be freely given in order to be considered. Whilst a competitor should be offered the opportunity to apologise, it is rarely beneficial to order that an apology be made.

34 Reporting to the national authority

- 34.1 Please see section 44

35 Referrals to clubs or classes post-hearing

- 35.1 The protest committee must decide (as part of the considering whether to give a penalty) whether to inform others (such as the club or class) of the case or, indeed, refer it to them for further consideration/action.
- 35.2 The protest committee could decide to refer a case when:
- 35.2.1 it feels that the penalty it would normally apply would disproportionately affect those are not involved (i.e. other crew members);
 - 35.2.2 the end of the event has already occurred and it is not appropriate to interfere with the results; or
 - 35.2.3 the committee feels the competitor's conduct merits further consideration outside the confines of the event (for example, it is appropriate the competitor should be excluded from club premises or the organizing authority should exclude the competitor from future events under rule 76.1).
- 35.3 In this case, the protest committee should provide the responsible officer of the club or class with a written report detailing the findings of the hearing, together with a recommendation for further action. Appendix J contains suggested contents of a report. The committee can suggest what it believes may be a suitable further penalty. The competitor should be provided with a copy of the report.
- 35.4 If the protest committee decides to refer a case for further action to a club or class, this would rank as a "*penalty greater than a DNE*" under rule 69.2(j) and a report must therefore be made to the national authority.

- 35.5 When the protest committee does not refer a competitor to a club or class following a rule 69 hearing, it is still often appropriate that they are informed the result of the hearing (preferably in the form of the recommended notice in Appendix J).
- 35.6 If others are to be informed or if the case is to be referred, the competitor must be told when the protest committee announces its decision.

36 Reopenings

- 36.1 Requests for reopening should be considered under rule 66 using the standard tests under that rule. The proceedings should be reconvened for instance if material evidence became available, or when it transpires that a competitor had a good reason for failing a hearing but is now available, or if the protest committee realises that it has made a mistake.

37 Common problems

- 37.1 A number of issues can arise at rule 69 hearings. The guidance below is intended to provide an overview of how the protest committee should approach the problems.

- 37.1.1 The competitor was unaware of the allegations and did not receive the written notification of the hearing

The protest committee is not entitled to proceed with the hearing. The competitor must be given the notification, given adequate time to prepare and the hearing rescheduled.

- 37.1.2 The competitor does not turn up to the hearing

Try to establish the reason for non-attendance. Rule 69.2(f) requires a hearing to be rescheduled if the competitor has a good reason not to attend.

Ascertain who gave the competitor the notification of the hearing and confirm that it was received. Ensure no one in the race office or the protest committee was asked to postpone the hearing.

- 37.1.3 The competitor asks for more time to prepare for the hearing

Determine how long the competitor has had to prepare (i.e. from when they received the notification of the hearing). Is this length of time reasonable? Consider if the competitor needs to call specific witnesses or obtain certain evidence. In general, the more complex and serious the allegation – the more time that should be given to prepare.

If the protest committee is satisfied the competitor has had adequate time to prepare and continuing with the hearing will not prejudice the fairness of the process, the hearing should continue. Any continuing objection (or indeed an agreement by the competitor to proceed) should be noted in the record of the hearing.

- 37.1.4 A representative of the competitor answers questions on his/her behalf

This is not permitted. The competitor must personally answer any questions put to him or her.

37.1.5 The competitor is a youth or junior

The chairman should inform the competitor's parents or guardians of the hearing, preferably in person.

The chairman must make sure the competitor and parents understand the nature of the hearing and why it is occurring. Representation by a parent or other adult who can ask questions and speak for the competitor is necessary.

If the person representing the competitor is not a parent, the parents should be invited as observers.

The committee must take into account the age and experience of the competitor during their questioning. It may be appropriate to change the layout of the committee room from the usual 'courtroom' style.

Appendix L contains further information about dealing with misconduct in youth and juniors.

37.1.6 The competitor becomes upset or emotional

The chairman should allow the competitor a short break and then ask if they are happy to continue. If they say yes, this should be recorded.

It is important that the protest committee allows the competitor a fair hearing. In the unlikely event the competitor cannot continue for good reason, then the hearing must be adjourned and rescheduled.

If the competitor is unrepresented and finds the process hard to cope with or understand, the protest committee should insist they bring someone to support them to the hearing.

37.1.7 The competitor is disruptive and behaves unreasonably at the hearing

The chairman must control the proceedings and explain to the competitor that the committee is not prepared to tolerate unacceptable behaviour.

If the competitor asks lengthy and irrelevant questions, the chairman should warn the competitor that only succinct and relevant questions should be asked. However, the committee must remember that not all competitors will be able to articulate themselves as well as would be preferred and allowances must be made.

If a competitor persists in dragging the hearing out, the chairman should impose a time limit by which the competitor must conclude his/her questions.

37.1.8 It is alleged the procedures in rule 69 have not been followed or there is some other allegation of procedural impropriety

The protest committee must determine this allegation before continuing with the hearing. Any fault in the procedure must be remedied before the hearing can continue.

If the protest committee is satisfied the procedures have been followed, it should explain why it believes this is so before continuing with the hearing. Any continuing objection should be noted.

37.1.9 The competitor wishes to call a large number of witnesses

The competitor is entitled to call as many witnesses as he/she wishes.

If the committee feels that the evidence is becoming repetitive, the chairman should ask the competitor what extra information the competitor feels the witnesses would provide. If the competitor says the same as already given, the chairman should politely remind the competitor there is no need to repeat evidence to the committee.

DECISION-MAKING

38 General

- 38.1 The Racing Rules of Sailing do not offer any guidance on how to reach a decision on whether or not misconduct occurred.
- 38.2 The protest committee should follow the standard process used for judging – determine the facts found, then the conclusions in order to reach a decision. It is important to determine what actually happened before turning to the question of whether that constituted misconduct.

39 Standard of proof

- 39.1 The ‘standard of proof’ means the test the protest committee must apply to evidence in order to determine what happened. In normal protest hearings the standard of proof applied by convention is the ‘balance of probabilities’ i.e. a protest committee has to decide whether it is more likely than not that a boat took avoiding action.
- 39.2 In rule 69 hearings, the rules specify a different standard of proof. This is the “*comfortable satisfaction of the protest committee, bearing in mind the seriousness of the alleged misconduct*” (rule 69.2(g)).
- 39.3 In applying this test, World Sailing has the following guidance:
 - 39.3.1 The words “comfortable satisfaction” must be given their ordinary and natural meaning. If a protest committee member is personally uncomfortable with a conclusion that misconduct occurred, then they are not ‘comfortably satisfied’.
 - 39.3.2 The test is not the same as “beyond a reasonable doubt” – the standard is less than this.
 - 39.3.3 The test requires the protest committee to consider the seriousness of the alleged misconduct. The more serious the misconduct alleged, the more unlikely it will generally be that a competitor will have committed it and therefore the greater the evidence needed to prove that it was committed. This reflects the starting position that competitors are assumed to comply with the rules and the Basic Principle.

40 Problem Issues

- 40.1 There are a number of factors that will affect the ability of the protest committee to make a decision on misconduct:
 - 40.1.1 The protest committee feels it did not receive enough evidence on a particular point

If the point is central to the issue, the committee is not entitled to find the competitor guilty. It must obtain the evidence needed before proceeding.

If the point is not central to the question of misconduct, the committee must consider to what extent it is relevant to the question of guilt.

If the committee feels the point is irrelevant to the question of guilt, then it can proceed.

If the point is relevant, then more evidence must be received before proceeding

40.1.2 The protest committee discovers evidence of another incident of misconduct

Evidence of other misconduct is not to be considered as evidence meaning the competitor committed the original misconduct under investigation. The two are separate allegations and a fresh rule 69 process must be carried out in relation to the new misconduct.

Similarly the fact that a competitor has committed misconduct in the past is not evidence that the competitor did so again.

40.1.3 The competitor has alleged the investigation of the misconduct and the hearing has been biased or improperly carried out

If the committee is satisfied it has carried out an unbiased and thorough process, then it can proceed. If not, then it must either conduct the process afresh or send a report to the national authority under rule 69.2(k) if it is impractical to hold a hearing.

40.1.4 The competitor threatens legal action against the committee

Whilst potentially disturbing to the individual committee members, the threat of legal action should not deter a protest committee. Provided the rules are followed and the competitor is accorded a fair and impartial hearing, there should be limited recourse to external bodies. The chairman should acknowledge the threat and record it but proceed.

It is essential that the rules and guidance are followed to the letter and a thorough record made of the proceedings. Using the checklists in Appendices C and D will help achieve this.

APPEALS

41 Right of appeal

- 41.1 The competitor has the right to appeal to the national authority (unless denied under rule 70.5 – but note some national authority prescriptions may affect the operation of this rule in rule 69 cases). Any appeal should be determined under the normal appeal procedures for challenging the decisions of protest committees. However - as with protests and request for redress - no appeal can be based on the facts found by the protest committee.
- 41.2 Grounds for appeal might be:
 - 41.2.1 that a conclusion of misconduct and a decision to penalize (or warn) was not supported by the facts found;
 - 41.2.2 that the protest committee had found there was a breach of a sportsmanship, when no principle of sportsmanship was broken; or
 - 41.2.3 the procedures of the protest committee were at fault.
- 41.3 The national authority can uphold, reverse or change the protest committee's decision. It can also require the protest committee to reopen the hearing or order a new hearing.

42 Participation pending appeal

- 42.1 A competitor who has been excluded (or a boat which has been disqualified) from an event is not entitled to continue to compete even if they notify the protest committee of an intention to appeal. The original decision of the protest committee must be respected and a refusal to do so would constitute fresh misconduct.
- 42.2 The national authority may prescribe that the original decision of the protest committee shall govern the results of the event.

RECOMMENDED PENALTIES

43 General

- 43.1 A list of recommended actions or penalties is in Appendix B.
- 43.2 The recommended actions or penalties are just those - recommendations. It is important that the protest committee considers the offence in the context of all relevant factors.
- 43.3 Use the recommended penalties as starting points and adjust accordingly for any aggravating or mitigating circumstances.
- 43.4 The following are some **aggravating** factors (the list is not exhaustive) which should lead the protest committee to take more severe action:
- 43.4.1 repeat offences;
 - 43.4.2 discriminatory conduct (e.g. on grounds sex, race, disability, sexuality, age etc.);
 - 43.4.3 intentional damage to property;
 - 43.4.4 violence or aggression (whether actual or perceived by the victim);
 - 43.4.5 abuse of race officials or other volunteers;
 - 43.4.6 the competitor shows no remorse or perception that the misconduct was wrong;
 - 43.4.7 the misconduct is witnessed by a large number of people; or
 - 43.4.8 the sport/event has been brought into disrepute with the local community/wider public
- 43.5 The following are some **mitigating** factors (the list is not exhaustive) which should lead the protest committee to take less severe action:
- 43.5.1 there is no evidence of prior misconduct and it is likely the competitor will not transgress again;
 - 43.5.2 the misconduct was reckless rather than intentional or wilful;
 - 43.5.3 non-malicious excess aggression arising from youth or inexperience of the sport;
 - 43.5.4 an isolated instance of knowingly breaking a rule without the intent to do so;
 - 43.5.5 the misconduct was not witnessed by a significant number of people; or
 - 43.5.6 the competitor shows genuine remorse for his actions.

REPORTING TO THE NATIONAL AUTHORITY & ITS ROLE

44 Reporting to the national authority and its role

- 44.1 There are two kinds of reports to the national authority of misconduct decisions – **mandatory** reports and **discretionary** reports.
- 44.2 A mandatory report is made when the protest committee has imposed a penalty greater than a DNE or has excluded a person from the event or venue (see rule 69.2(j)(1) and (2)).
- 44.3 A discretionary report is made a mandatory report is not required, but the protest committee considers that it is still appropriate in the circumstances to do so.
- 44.4 A report under rule 69.2(k) will trigger the requirement on the national authority under the World Sailing Disciplinary Code to investigate the case and hold a hearing if appropriate. In addition to any disciplinary powers it may have over a competitor under its membership rules, a national authority has the power to suspend or revoke the Competition Eligibility (the general right to compete) or World Sailing Eligibility (the right to compete in most international competitions) of the competitor.
- 44.5 If the protest committee is considering exercising its discretion to make a report, it should consider whether further action by the national authority may be warranted. While national authorities have obligations under the World Sailing Disciplinary Code to investigate reports and conduct further hearings where appropriate, protest committees have an important role in ensuring that intervention by the national authority may be justified before making a report.
- 44.6 Protest committees considering a discretionary report must have regard to the guidance in World Sailing Case 139.
- 44.7 If misconduct can be dealt with properly at an event with a fair outcome, then a protest committee should not make a discretionary report to the national authority. However if the protest committee considers that further action after the event is warranted, then it should make a report.
- 44.8 Please use the guidance in Appendix K when making a report to the national authority.

APPENDIX A: EXAMPLES OF MISCONDUCT

45 Examples of Misconduct (see World Sailing Case 138)

- 45.1 Engaging in any unlawful activity (for example, theft, assault, criminal damage)
- 45.2 Engaging in any activity which may bring the sport into disrepute
- 45.3 Bullying, discriminatory behaviour and intimidation
- 45.4 Physical or threatened violence
- 45.5 Acting recklessly or in manner that does, or is likely to, cause damage or injury
- 45.6 Disobeying the reasonable instructions of event officials
- 45.7 Intentionally breaking a rule or inciting others to break a rule
- 45.8 Interference with another competitor's equipment
- 45.9 Repeated breaches of a rule
- 45.10 Failing to act to prevent your boat or team breaking a rule when you are aware of that breach
- 45.11 Not telling the truth or the whole truth in a hearing
- 45.12 Other forms of cheating such as falsifying personal, class or measurement documents, entering a boat known not to measure, missing out a mark to gain places, etc.
- 45.13 Foul or abusive language that causes or may cause offence *
- 45.14 Making abusive or disrespectful comments concerning race officials or their decisions (including via electronic means such as social media)

* Bad language (including that not directed towards an official) has to be judged in this context. If you are uncomfortable with the language being used, then action should be taken. It is quite proper for clubs and organisers to make clear before an event that the use of inappropriate language will lead to rule 69 action. If the organisers have made this statement, then the protest committee should be prepared to enforce the standards expected. However, if an event or club has tolerated such language in the past, then a single incident of bad language should not trigger rule 69 action. This is not to condone such a language, but World Sailing supports the principle that clubs and event must set and improve their own standards.

Foul and abusive language towards race officials should be considered under the dissent guidance found in Appendix E.

APPENDIX B: RECOMMENDED ACTIONS & PENALTIES

46 Recommended Penalties

46.1 Penalties are recommended at six levels:

- Level 0** Interview with competitor, but no hearing
- Level 1** Warning, but no penalty
- Level 2** Increase the boat's points score
- Level 3** Disqualify the boat or exclude competitor from a number of race(s) (and/or remove some privileges or benefits)
- Level 4** Disqualify the boat or exclude competitor from event (and/or remove all privileges or benefits)
- Level 5** Disqualify the boat or exclude competitor from event (and/or remove all privileges or benefits), and recommend further action by the national authority

Type of misconduct	Range
Engaging in any unlawful activity (e.g. theft, assault, criminal damage)	3 - 5
Engaging in any activity which may bring the sport into disrepute	1 - 5
Bullying, discriminatory behaviour and intimidation	3 - 5
Physical or threatened violence	4 - 5
Acting recklessly or in a manner that does, or is likely to, cause damage or injury	3 - 5
Disobeying the reasonable instructions of event officials	0 - 5
Intentionally breaking a rule or inciting others to break a rule	1 - 4
Interference with another competitor's equipment	2 - 5
Repeated breaches of a rule	3 - 5
Failing to act to prevent your boat or team breaking a rule when you are aware of that breach	1 - 5
Not telling the truth or the whole truth in a hearing	3 - 5
Other forms of cheating such as falsifying personal, class or measurement documents, entering a boat known not to measure, missing out a mark to gain places etc.	0 - 5

Foul or abusive language that causes or may cause offence	0 - 3
Making abusive or disrespectful comments concerning race officials or their decisions (including via electronic means such as social media)	0 - 3

APPENDIX C: RULE 69 HEARING CHECKLIST (STANDARD)

For use where there is no separate person appointed to present allegations under rule 69.2(e)(1).

47 Checklist for the chairman conducting rule 69 hearings

Name of competitor:

Boat:

Event:

Date of hearing:

Protest committee members:

Item	Check?
Introduce the members of the protest committee by name and state any relevant judging qualifications	
Ask if there are any objections to those members and if necessary rule on any objection. Record the answer. Objections?: Yes/No (delete as applicable) If yes: Upheld / Dismissed (delete as applicable) Reason:	
If an investigator was appointed, check that all material collected in the investigation has been disclosed the competitor and the protest committee.	
Ask if sufficient time has been given for preparation. Record the answer. If necessary, determine how much extra time should be allowed Extra time requested: Yes / No (delete as applicable) If yes: Granted / Refused (delete as applicable)	

Reason:	
<p>Ask if the competitor has received the written notification and understands the nature of the allegations. Record the answer. If the competitor does not speak English as a first language, determine if a translator is required.</p> <p>Competitor has received written notification: []</p> <p>Competitor understands allegations: []</p>	
<p>If not already represented, ask the competitor if they wish to be represented and/or have an advisor present. If they say no, explain that they can change their mind at any during the hearing (but that the hearing will not start again from the beginning).</p> <p>Competitor represented: Yes / No (delete as applicable)</p> <p>If yes: name of representative/advisor:</p> <p>If no: competitor understands right to representation: []</p>	
<p>If represented, explain that the representative can consult with the competitor, ask questions for him and sum up for him, but cannot answer questions on behalf of the competitor.</p>	
<p>Explain that the allegation is at the moment just that - an allegation. Explain the purpose of the hearing is to determine what has happened and whether misconduct has been committed.</p>	
<p>Explain to the competitor what the possible outcomes might be if the allegations are proven - a warning, penalisation and potential further action by the national authority (or if a foreign competitor – his/her own national authority).</p>	
<p>Hear the main witness supporting the allegation, and allow the competitor to question the witness, who may then be questioned by the committee. That person should then leave the hearing, unless he or she is a member of the protest committee, whose presence throughout has been foreseen.</p> <p>Name of witness:</p> <p>Evidence given by witness: []</p> <p>Witness questioned by competitor: []</p> <p>Witness questioned by committee: []</p>	

Ask the competitor to sum up his case	
Ask the parties to confirm they have had a fair hearing and been able to make all their submissions	
Ask the competitor and all others present to withdraw, and confer.	
Find the facts, writing down exactly what happened and/or what was said. If the use of bad language is relevant to the case, write down the exact words believed to have been used. As with a protest, avoid making conclusions in the facts found. Apply the standard of proof set out in RRS 69.2(g).	
Conclude in writing whether the facts constitute a breach of good manners or sportsmanship, unethical behaviour or may bring of the sport into disrepute. Apply the standard of proof set out in RRS 69.2(g).	
Recall the competitor to announce whether the allegation is upheld or dismissed. If it is dismissed, close the hearing.	
If it is upheld, ask the competitor whether there are any mitigating circumstances the committee might consider when deciding whether to warn or penalize. Receive any apologies.	
Ask the competitor to withdraw again. Decide whether to warn, or to penalize, in which case decide the penalty.	
Recall the competitor, and announce the decision. Repeat or explain the decision if necessary, but avoid getting into further argument if the competitor is upset and does not accept the decision.	
Explain any right of appeal to the national authority.	
Advise the race committee of the decision if it affects the scores for the event, or if a competitor is to be excluded.	
Post a notice on the official notice board, giving the result of the hearing, but not facts or conclusions. It is recommended you use the wording in Appendix K.1.3.	
If a report is to be made to the national authority or World Sailing, notify the facts found, conclusions and decision to them. Include the names of the committee and the address of the chairman/chairwoman. Record that the competitor was asked whether sufficient time had been given for preparation, and whether there was any objection to the composition of the committee, noting the answers given. It is recommended you use follow the guidance in Appendix K	

<p>Retain all records for at least six months. The records should include the original report to the protest committee (if written - if not, produce a note of it), the written notification to the competitor, this checklist, the notes of the hearing, the written facts, conclusion and decision and the notice posted (if any) on the official noticeboard</p>	
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.....
 Panel Chairman

.....
 Date

APPENDIX D: RULE 69 HEARING CHECKLIST (WITH A PRESENTER OF ALLEGATIONS)

For use where someone has been appointed as a separate presenter of the allegations under rule 69.2(e)(1). For the purposes of this checklist and for brevity, this person is referred to as “the investigator”, however, it is not required that any investigator appointed under rule 69.2(c) is also the presenter of the allegations.

48 Checklist for the chairman conducting rule 69 hearings

Name of competitor:

Boat:

Event:

Date of hearing:

Protest committee members:

Item	Check?
Introduce the members of the protest committee by name and state any relevant judging qualifications	
Ask if there are any objections to those members and if necessary rule on any objection. Record the answer. Objections?: Yes/No (delete as applicable) If yes: Upheld / Dismissed (delete as applicable) Reason:	
Explain to the competitor that the allegation will be presented to the committee by someone appointed by the committee.	
If an investigator was appointed, check that all material collected in the investigation has been disclosed the competitor and the protest committee.	

<p>Ask if sufficient time has been given for preparation. Record the answer. If necessary, determine how much extra time should be allowed</p> <p>Extra time requested: Yes / No (delete as applicable)</p> <p>If yes: Granted / Refused (delete as applicable)</p> <p>Reason:</p>	
<p>Ask if the competitor has received the written notification and understands the nature of the allegations. Record the answer. If the competitor does not speak English as a first language, determine if a translator is required.</p> <p>Competitor has received written notification: []</p> <p>Competitor understands allegations: []</p>	
<p>If not already represented, ask the competitor if they wish to be represented and/or have an advisor present. If they say no, explain that they can change their mind at any during the hearing (but that the hearing will not start again from the beginning).</p> <p>Competitor represented: Yes / No (delete as applicable)</p> <p>If yes: name of representative/advisor:</p> <p>If no: competitor understands right to representation: []</p>	
<p>If represented, explain that the representative can consult with the competitor, ask questions for him and sum up for him, but cannot answer questions on behalf of the competitor.</p>	
<p>Explain that the allegation is at the moment just that - an allegation. Explain the purpose of the hearing is to determine what has happened and whether misconduct has been committed.</p>	
<p>Explain to the competitor what the possible outcomes might be if the allegations are proven - a warning, penalisation and potential further action by the national authority (or if a foreign competitor – his/her own national authority).</p>	
<p>Hear the main witness supporting the allegation, and allow the investigator to question them. Allow the competitor to question the witness, who may then be questioned by the committee. That person should then leave the hearing, unless he or she is a member of the protest committee, whose presence throughout has been foreseen.</p>	

<p>Name of witness:</p> <p>Evidence given by witness: []</p> <p>Witness questioned by investigator: []</p> <p>Witness questioned by competitor: []</p> <p>Witness questioned by committee: []</p>																					
<p>Hear, one by one, other witnesses supporting the allegations, and allow the investigator, then the competitor, and then the committee to question each witness.</p> <table data-bbox="209 808 941 1122"> <tr> <td>Witness Number</td> <td>1</td> <td>2</td> <td>3</td> </tr> <tr> <td>Evidence given by witness:</td> <td>[]</td> <td>[]</td> <td>[]</td> </tr> <tr> <td>Witness questioned by investigator:</td> <td>[]</td> <td>[]</td> <td>[]</td> </tr> <tr> <td>Witness questioned by competitor:</td> <td>[]</td> <td>[]</td> <td>[]</td> </tr> <tr> <td>Witness questioned by committee:</td> <td>[]</td> <td>[]</td> <td>[]</td> </tr> </table> <p>Names of witnesses:</p> <ol style="list-style-type: none"> 1. 2. 3. 	Witness Number	1	2	3	Evidence given by witness:	[]	[]	[]	Witness questioned by investigator:	[]	[]	[]	Witness questioned by competitor:	[]	[]	[]	Witness questioned by committee:	[]	[]	[]	
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Evidence given by witness:	[]	[]	[]																		
Witness questioned by investigator:	[]	[]	[]																		
Witness questioned by competitor:	[]	[]	[]																		
Witness questioned by committee:	[]	[]	[]																		
<p>Hear the evidence of the competitor, who may then be questioned by the investigator and then the committee.</p> <p>Evidence given by competitor: []</p> <p>Competitor questioned by investigator: []</p> <p>Competitor questioned by committee: []</p>																					
<p>Hear, one by one, the witnesses called by the competitor: allow the competitor to question each witness, and then the investigator and then the committee.</p>																					

Witness Number	1	2	3	
Evidence given by witness:	[]	[]	[]	
Witness questioned by competitor:	[]	[]	[]	
Witness questioned by investigator:	[]	[]	[]	
Witness questioned by committee:	[]	[]	[]	
Names of witnesses:				
1.				
2.				
3.				
Ask the investigator to summarise his case				
Ask the competitor to summarise his case				
Ask the parties to confirm they have had a fair hearing and been able to make all their submissions				
Ask the investigator, competitor and all others present to withdraw, and confer.				
Find the facts, writing down exactly what happened and/or what was said. If the use of bad language is relevant to the case, write down the exact words believed to have been used. As with a protest, avoid making conclusions in the facts found.				
Apply the standard of proof set out in RRS 69.2(g).				
Conclude in writing whether the facts constitute a breach of good manners or sportsmanship, unethical behaviour or may bring of the sport into disrepute.				
Apply the standard of proof set out in RRS 69.2(g).				
Recall the investigator and the competitor to announce whether the allegation is upheld or dismissed. If it is dismissed, close the hearing.				
If it is upheld, ask the competitor whether there are any mitigating circumstances the committee might consider when deciding whether to warn or penalize. Receive any apologies.				
It is not normally appropriate to ask the investigator to comment on question of penalty. The investigator should address the committee if he is aware of facts that confirm or				

discredit the statement made by the competitor in mitigation. If the investigator does so, allow the competitor to respond.	
Ask the parties to withdraw again. Decide whether to warn, or to penalize, in which case decide the penalty.	
Recall the parties, and announce the decision. Repeat or explain the decision if necessary, but avoid getting into further argument if the competitor is upset and does not accept the decision.	
Explain any right of appeal to the national authority.	
Advise the race committee of the decision if it affects the scores for the event, or if a competitor is to be excluded.	
Post a notice on the official notice board, giving the result of the hearing, but not facts or conclusions. It is recommended you use the wording in Appendix K.1.3.	
<p>If a report is to be made to the national authority or World Sailing, notify the facts found, conclusions and decision to them. Include the names of the committee and the address of the chairman/chairwoman.</p> <p>Record that the competitor was asked whether sufficient time had been given for preparation, and whether there was any objection to the composition of the committee, noting the answers given.</p> <p>It is recommended you use follow the guidance in Appendix K</p>	
Retain all records for at least six months. The records should include the original report to the protest committee (if written - if not, produce a note of it), the written notification to the competitor, this checklist, the evidence collected by the investigator, the notes of the hearing, the written facts, conclusion and decision and the notice posted (if any) on the official noticeboard	

.....
Panel Chairman

.....
Date

APPENDIX E: DISSENT GUIDANCE

49 Dealing with dissent

- 49.1 Unacceptable dissent is defined as the dispute of a race official's action or decision in a manner which implies incompetence, prejudice or insult, and which is offensive to a race official. This is an objective test (i.e. just because the comment is not offensive to a particular race official and his or her views does not mean it is acceptable overall).
- 49.2 Expressing a difference or disagreement over a decision are acceptable behaviours. Abuse and rebellion are unacceptable behaviours. Expressing opposition is a marginal behaviour. Dissent can occur on-the-water, ashore or in the jury room, and sometimes race officials may find it difficult to cope with a situation without appearing too authoritarian.
- 49.3 There can be a wide range of levels of dissent, and there are also differences in the perceived level of acceptance of dissent in different forms of racing (youth events, professional match racing etc).
- 49.4 Nevertheless, foul or abusive language, intimidation, aggressive behaviour or lack of respect for others and their property must not be tolerated and appropriate action should be taken. This applies to competitors, race officials, coaches and other advisors. In addition, abuse of officials is behaviour that would justify action under rule 69.
- 49.5 It is important that all race officials work together to tackle the dissent when it is encountered. Failure to confront unacceptable behaviour at the time can lead competitors to think it is acceptable and repeat it in the future.

50 Event Officials

- 50.1 All event officials (whether or not a qualified race official or not) are entitled to be treated with fairness and respect. Almost all will have given up their free time to officiate for no reward other than the fact they enjoy the sport.
- 50.2 It is helpful for the chairman of the protest committee to remind the organisers that any problems with competitors should be reported to them.

51 Hearings

- 51.1 The International Judges' Manual states that, if a party to a protest requires clarification, this should be given immediately, but no further discussion should be permitted at this time. It may be that, if a competitor remains unclear or unsure about a decision or the judges have not written a clear enough decision (facts found, conclusions, decision etc).
- 51.2 Whether or not, and to what extent, discussion with a dissatisfied party at a future time should be permitted will depend on the experience and confidence of the chairman and members of the protest committee. Permitting an informal discussion with the protest committee, and setting a time for this discussion, in response to dissatisfaction when the protest decision is announced can often defuse a stressful atmosphere; conversely, refusing any future discussion can often exacerbate the bad feeling.

- 51.3 Alternatively, a protest committee member may be appointed to explain informally a decision. If this approach is adopted, one protest committee member should explain the decision and another judge should facilitate the discussion and ensure it remains cordial and to the point.

52 Umpiring/On-the-Water Judging

- 52.1 The International Umpires' Manuals state that umpires have an obligation to explain their calls to all competitors and umpires. This principle covers match racing, team racing, umpired fleet racing and rule 42 judging.
- 52.2 Whenever two people, umpires or competitors, think that different things happened, they are unlikely to change their mind. We all see things differently, and it is important to bear this in mind. It is important to distinguish between differences of opinion relating to what happened (facts) and interpretations of the rules.
- 52.3 Explanations should be restricted to giving the reason for the call - for example, "We considered you had no need to change course to avoid the port-tack boat". Any rational discussion on the applicable rules and 'what if' questions should be answered. If a competitor disputes the facts, it can be useful for the umpires to remind the competitor that they can only see an incident once and from the position they were in at the time.
- 52.4 Experienced racers use this discussion to confirm that their understanding of the rules is the same as the umpires, and therefore the conversation is likely to be quick and civil.
- 52.5 Less experienced racers are more likely to want to prove that 'they were right' and the conversation can easily turn into an argument. In such cases, the umpire must avoid getting pulled into an argument concerning the facts and should finish the conversation by advising the crew "See us when ashore".
- 52.6 Umpires should be aware that emotions can often be running high at the end of a race and it may be best to wait a couple of minutes before conversing with the crew. Indeed, unless a competitor requests a discussion, the umpires should not initiate one.
- 52.7 Umpires must be prepared to own up to any errors quickly and graciously.
- 52.8 Umpires do not have to tolerate any form of abuse, but turning a blind eye in moments of stress may often be a better approach. It is usually more helpful to speak to the competitors about such breaches away from the incident (in both time and distance). This is not because there are lower standards of behaviour in umpired racing, but the format of racing is different and umpires are more likely to directly observe borderline incidents.
- 52.9 Taking further action depends on the words, the manner in which they have been spoken, and any other related actions of the crew of the boat. If they merely express unhappiness or disappointment, or that in their opinion the decision was wrong, then a penalty is not appropriate.
- 52.10 However, if the total effect is to convey that the umpires are incompetent or prejudiced, a penalty may be justified, whether the meaning is directed only at the umpires or also to others nearby.
- 52.11 If the meaning is clearly insulting to the umpires, a penalty should be imposed and, if repeated or when particularly offensive, a rule 69 report should be made and a hearing considered by the complete protest committee. What one umpire may perceive as 'banter' may be regarded by others as unacceptable. Ignoring abuse or bad language means competitors see the conduct as

acceptable and it may be repeated in future, diminishing the authority of race officials in general and potentially discouraging volunteers from agreeing to serve as race officials.

53 Race Management Teams

- 53.1 Most members of the race management team are in close proximity to competitors as they carry out their tasks. Sometimes dissent occurs which can lead to unfortunate incidents, especially in the heat of the moment.
- 53.2 It is wise not to be drawn into debate or argument on the water but it is recommended in the Race Management Manual for the race officer (and other members of the race management team, if appropriate) to make themselves available ashore each day to listen to the competitors and explain their decisions. The time and place for this should be given in the briefing or on the official notice board.
- 53.3 However, race management team members do not have to tolerate any form of abuse and, if something that has been said to them is clearly insulting, they should speak to the race officer whose job it is to speak to the competitor and decide whether to protest the competitor under rule 2 or make a rule 69 report to the protest committee

APPENDIX F: PRINCIPLES OF SPORTSMANSHIP & FAIR PLAY

54 Sportsmanship and Fair Play

- 54.1 Rule 2, Fair Sailing, refers to the recognised principles of sportsmanship and fair play. The recognised principles of sportsmanship and fair play include the following (which is a non-exhaustive list):

55 Respect for the rules

- 55.1 Breaches of this principle include:
- 55.1.1 Knowingly breaking a rule and not taking a penalty
 - 55.1.2 Deliberately breaking a rule
 - 55.1.3 Deliberately breaking a rule to gain an unfair advantage
 - 55.1.4 Collusion with another competitor to ignore rule breaches which may aggrieve or disadvantage other competitors
 - 55.1.5 Gamesmanship, defined as behaviour of questionable fairness but not strictly illegal tactics

56 Respect for other competitors

- 56.1 Breaches of this principle include:
- 56.1.1 Bullying, intimidating or harassing others
 - 56.1.2 Verbal abuse, unnecessary shouting or foul language
 - 56.1.3 Ungracious acceptance of defeat
 - 56.1.4 Sailing to benefit another competitor to the detriment of own position (not applicable in team racing events)
 - 56.1.5 Deliberately making misleading hails

57 Respect for race officials

- 57.1 Breaches of this principle include:
- 57.1.1 Use of language that might convey incompetence or prejudice of race officials
 - 57.1.2 Use of language which personally offends a race official

57.1.3 Dissent against a race official decision

58 Respect for property

58.1 Breaches of this principle include:

58.1.1 Reckless sailing likely to result in damage or injury

58.1.2 Abuse of boats or equipment supplied by an Organizing Authority or belonging to a competitor

58.1.3 Careless damage to property

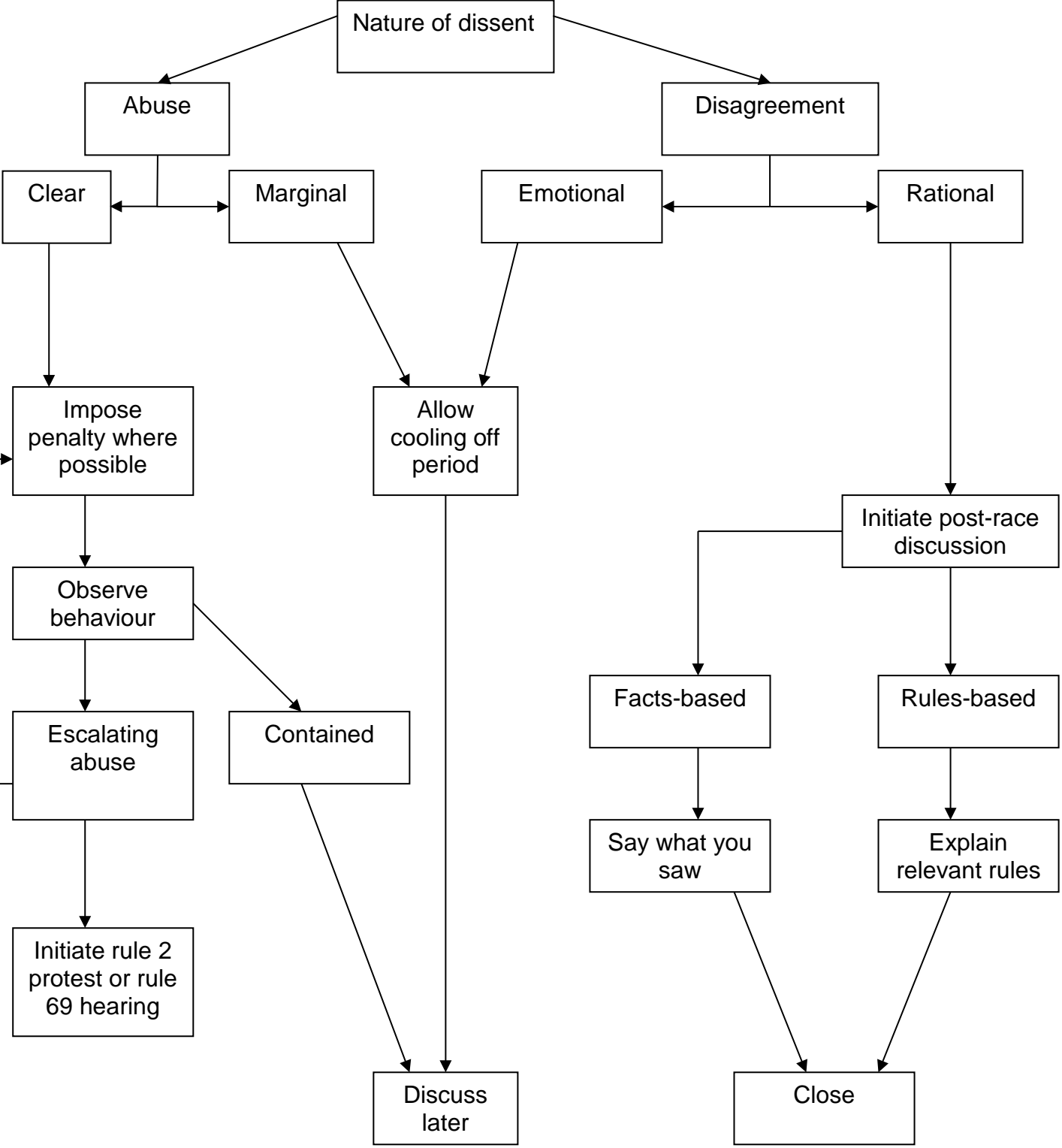
59 Sportsmanship and race official decisions

- 59.1 Rules C8.3(c) and D2.3(g) allow match and team race umpires to initiate penalties for breaches of sportsmanship. Umpires must decide whether behaviour breaches these rules, and/or rules 2 and 69, and what penalties will be applied.
- 59.2 Umpires should refer to the examples of breaches of the principles of sportsmanship and fair play in F.1 above, and MR Call 4 or TR Call M8 (as appropriate), in deciding whether a behaviour breaks rules C8.3(c) and D2.3(g).
- 59.3 If a breach of sportsmanship is determined to have occurred during a race or match, then the umpires should apply a penalty without warning in match racing, or a two turns penalty in team racing for a first breach.
- 59.4 For repeated or gross breaches of sportsmanship during races or matches, the umpires should disqualify the boat in match racing or report the incident to the protest committee in team racing. The protest committee should then decide if escalation under rule 69 is appropriate. A protest under rule 2 should not normally be applied for breaches of sportsmanship during races or matches which can be dealt with by way of penalty turns.
- 59.5 For breaches of sportsmanship that occur outside races or matches, the umpires will apply rule 2 or 69 by reporting the incident to the protest committee who may then act under rule 60.3 or rule 69.
- 59.6 Race officials may have to deal with a dispute against a race official decision that may constitute a breach of sportsmanship through dissent.
- 59.7 By reference to the flowchart on dissent, the race official will first determine whether the observed behaviour is acceptable, marginal or unacceptable.
- 59.8 For acceptable behaviour, the race official will initiate a post-race discussion of the incident. The explanation will include the facts observed and the relevant rule leading to the decision or call. If the facts observed are disputed during the discussion, the race official will restate what was observed and close the discussion. If the rule application is disputed, the race official will explain why a particular rule was applied to reach a decision. If the race official believes he has made an error, an apology will be made.
- 59.9 For marginal behaviour, the race official will allow a cooling-off period before attempting to address the dispute. This will involve a reply such as “we will discuss this later/ashore”. If a race

official is unsure whether behaviour is unacceptable, the benefit of doubt will be given to the competitor and the behaviour treated as marginal.

- 59.10 For clearly unacceptable behaviour, the race official will deem the dissent a breach of sportsmanship and apply the relevant rules. These may include an on-the-water penalty, disqualification in match racing, initiating a rule 2 protest or a rule 69 hearing depending on the severity of the dissent. Following the imposition of any on-the-water penalty, the race official will critically observe a competitor's next behaviour. Any escalation of dissent will be penalised again as a separate incident.

Dissent Flowchart



APPENDIX G: RULES 2 & 69

60 The interaction between rules 2 and 69

- 60.1 Generally, sailing is a self-policing sport. However, the enforcement of rules 2 and 69 is the responsibility of all those involved - competitors, race officials, coaches, organisers, national authorities and World Sailing.
- 60.2 Allowing unacceptable behaviour to go unchecked can implicitly condone it and does not protect those sailors who have chosen to compete within the rules. The promotion of fair play and sportsmanship is the responsibility of all those involved in our sport.
- 60.3 Some misconduct is clearly 'rule 2' (initially, at least) some is clearly 'rule 69'. Some can be either. This guidance aims to assist race officials in the application and administration of both. Race officials must also have regard to the guidance in World Sailing Case 138.

61 Rule 2

- 61.1 Rule 2 is one of the seven fundamental racing rules. It places an active duty on a boat to compete in accordance with the principles of fair play and sportsmanship.
- 61.2 Rule 2 concerns the actions of a boat (which includes its crew) and of its owner. Any penalty attaches to the boat, not an individual. Under World Sailing Cas 138, any action that directly affects the fairness of the competition, or failing to take an appropriate penalty, should be considered under rule 2. It is therefore usually a "field of play" or "on the water" rule concerning behaviour whilst racing and does not normally cover incidents occurring ashore or serious (or repeated) offences on the water. In these circumstances, it is appropriate to lodge a report with the protest committee under rule 69.
- 61.3 Rule 2 places an emphasis on "recognized principles" of fair play and sportsmanship. How do officials recognise and enforce them?

62 Rule 2: Recognized Principles

- 62.1 With one exception, the rules deliberately do not define these principles. It is necessary to take each situation in context. Nevertheless, the principles in Appendix F (which are examples and not a definitive list) are generally accepted as unsportsmanlike.

63 Rule 2: Enforcement

- 63.1 A race official must be sure in his own mind that unsportsmanlike behaviour has taken place, but race officials should not assume that someone else will act and therefore they do not need to. The final decision is for the protest committee, but it cannot decide unless a protest is delivered.
- 63.2 A boat, the race committee, the protest committee, or the technical committee can protest for a breach of rule 2, on its own, or as part of a protest under other rules. In addition, a protest committee can penalize any party to a hearing under rule 2 based on evidence at the hearing of a protest brought under other rules.

- 63.3 A protest under rule 2 must comply with the normal requirements for protests and be delivered in time. If the protest committee is satisfied that it has been clearly established that a boat, or her owner, has broken the recognised principles of sportsmanship, then the boat is to be penalised by disqualification, which may or may not be excludable from the series score (DSQ or DNE). A DNE is a serious penalty, but has no effect or consequences for the boats or competitors involved beyond that of the race in question.
- 63.4 The requirement for the breach to be 'clearly established' means that the standard of proof required is higher than the 'balance of probabilities' that applies to most boat v boat protests.
- 63.5 In the context of umpired racing, when the umpires are sure that a breach of sportsmanship has taken place, they should penalise the boat concerned.

64 Rule 69

- 64.1 Rule 69 will normally apply to events that happen ashore, and, (as well as or instead of rule 2), to more serious misconduct by individual competitors while racing. Typical rule 69 breaches are included in Appendix A and see also World Sailing Case 138.

65 Which rule to use if there is a choice?

- 65.1 The outcome of a rule 69 hearing may be more severe than a rule 2 hearing. But it may also be less severe, in the form of a warning. When a protest committee can clearly foresee from the alleged facts that a warning might be more appropriate than a DSQ or DNE, it should choose rule 69 at the outset if it has the choice. It will have no choice if it upholds a protest under rule 2 other than to disqualify the boat.
- 65.2 Conversely, if a serious or repeated breach of a rule may have occurred, it is recommended to begin with a normal protest hearing if possible under rule 2 and any other appropriate rule and to find facts and (if appropriate) to penalize a boat, before deciding to proceed to a new hearing under rule 69 against an individual, based on those findings.
- 65.3 A rule 69 hearing can only be called by the protest committee – whether on a report by one of its members or from a report by a competitor, race official or any other person.

RULE 2 AND RULE 69 – SUMMARY OF DIFFERENCES		
	<u>Rule 2</u>	<u>Rule 69</u>
<u>Test</u>	Clear violation or recognised principles of sportsmanship and fair play	Conduct that is a breach of good manners, a breach of sportsmanship, unethical behaviour or may bring the sport into disrepute
<u>Classification</u>	Decided as a protest against a boat	Not a protest, but is an action against a competitor
<u>Initiation</u>	There must be a valid protest, which may involve time limits. Can be brought by the protest committee, the race committee, the technical committee or boat. If relevant facts arise in a valid protest under other rules, no new protest is needed against a party to the hearing in order to penalize.	Separate written notification required, no time limit (but should be prompt). Can only be brought by the protest committee. If relevant facts emerge from a protest under other rules, a fresh hearing with written notification is required.
<u>Protest Committee</u>	No minimum number (but it is recommended there be three)	Three members minimum
<u>Standard of Proof</u>	Clear establishment that a recognised principle of sportsmanship and fair play has been violated	The comfortable satisfaction of the protest committee, bearing in mind the seriousness of the alleged misconduct
<u>Outcome</u>	Dismissal, DSQ or DNE. Does not preclude proceeding to a rule 69 action. No report required.	Dismissal: warning: a range of penalties: any penalty to be reported to the national authority or World Sailing and possibly others. National authority or World Sailing may act further.
<u>Appeals</u>	Decisions and procedures, but not facts, may be appealed.	Decisions and procedures, but not facts, may be appealed.

APPENDIX H: CHILD PROTECTION & RULE 69

66 Guidance on child protection issues and the use of rule 69

- 66.1 Some national authorities and countries will have certain laws, procedures and policies in place concerning child protection and bullying. These must be consulted and this Guidance does not override them.
- 66.2 Child protection policies or procedures should not prevent a protest committee from calling a hearing to investigate alleged misconduct which has taken place. However, it is important that all race officials recognise that in some cases it will be inappropriate to conduct investigations and/or rule 69 hearings. If it is clear that there has been a one-off incident that can be dealt with under rule 69, then the protest committee should proceed in the normal manner with a hearing and impose any penalty it deems appropriate.
- 66.3 If a national authority receives a number of reports of rule 69 hearings relating to the same sailor or official which appear to indicate a pattern, this should be investigated as appropriate.
- 66.4 A protest committee must always be mindful of its jurisdiction, which only extends to cover the event in question. It is not within the power of the protest committee to inquire into reports of misconduct which occurred at other events, training camps, squad training etc. Any such concerns should be reported to the national authority.
- 66.5 Any allegation of child abuse or neglect (no matter how or from whom received) must be referred to the appropriate official for such matters from the event, the club or class, or if there is none, to the national authority. Child abuse can be peer bullying and it is vital that the race official works closely with the appropriate official over any such allegations.
- 66.6 It is not an option to ignore such allegations. It is for an appropriate qualified official (and not anyone else such as a race official) to make a decision as to whether a matter should be referred to the police or government agencies.
- 66.7 There may be occasions where the protest committee wishes to refer a matter to other authorities but also wishes to carry on with its investigation. In these situations the protest committee must proceed with extreme caution.
- 66.8 If it is clear that the matter reported is in no way related to an allegation of sporting misconduct, then the protest committee can proceed separately with the sporting misconduct complaint if the authorities are happy for this to occur.
- 66.9 If the authorities are not happy, or if they are not available, the protest committee should not proceed. It will always be open to the national authority to proceed under rule 69.3 if the child protection matter is dropped later on.
- 66.10 The reason for this is that it will not always be in the best interests of the young sailor, who has chosen not to report any suspected abuse, neglect or bullying earlier, for a full investigation to

take place during competition, while they are under pressure to perform and particular where the alleged suspect is present.

- 66.11 Police and government agencies have trained personnel who should be the only ones to interview the child. The worse case scenario is that a race official, however well-meaning and despite acting in good faith, will interfere with the course of justice by interviewing a child or investigating a serious complaint in the incorrect manner.

APPENDIX I: POLICE INVOLVEMENT & RULE 69

67 Guidance on dealing with police investigations and rule 69 issues

- 67.1 A protest committee may be faced with the situation where an incident being investigated is also subject to a report to the police.
- 67.2 The protest committee should not normally delay any investigation and/or hearing merely because the police are involved. The police investigate matters under the criminal law and a protest committee investigated matters under the Racing Rules of Sailing.
- 67.3 If a protest committee has concerns about continuing to investigate a situation (for example if the offence is unusually serious or there is heavy police involvement), then the committee should seek the advice of the police involved and (if time permits) the national authority.
- 67.4 If the police request that a protest committee ceases its investigations, then it should do so and report the matter promptly and in full to the national authority.
- 67.5 This guidance does not apply to any issues of child protection which must be dealt with under the guidance in Appendix H.

APPENDIX J: EXCLUSION UNDER RULE 76

68 Exclusion of boats or competitors under rule 76

- 68.1 Where misconduct occurs before the start of racing - or if there is genuine cause prior to an event to believe a competitor will commit misconduct - the powers of rule 76 can be used to exclude the competitor from the event prior to it starting.
- 68.2 The organizing authority or the race committee has the power under rule 76.1 to reject or cancel the entry of a boat or the entry of any competitor. This power only exists before the start of the first race and a reason must be provided.
- 68.3 There are limitations on the use of this power:
 - 68.3.1 it cannot be used on advertising grounds, provided the competitor is complying with the Advertising Code;
 - 68.3.2 it cannot be used at a world or continental championships if the stated quota of boats/competitors has not yet been met without first seeking the permission of the international class association (or the Offshore Racing Council) or World Sailing; and
 - 68.3.3 some national authorities have prescribed to the rule and require that the reason for excluding the competitor or boat must not be unreasonable or discriminatory.
- 68.4 Despite not being entered, a boat or competitor is entitled under to seek redress against a decision to exclude and this should be treated as a normal redress hearing based on rule 62.1(a).

APPENDIX K: MODEL FORMS

69 Model forms and notices

- 69.1 This section contains the following model forms and wording for use by protest committees in relation to rule 69 issues:
 - 69.1.1 Notification letter to competitor of rule 69 action
 - 69.1.2 Report to the national authority
 - 69.1.3 Notice for the official notice board following a hearing
- 69.2 In addition, the checklists in Appendices C and D of this Guidance should be photocopied and use as guides for the chairman of a hearing.

70 Wording for letter of notification to competitor

Dear [name],

NOTIFICATION OF ACTION UNDER RULE 69.2

I am writing to inform you that the Protest Committee of this event has received a report under rule 69.2 alleging that you may have broken rule 69.1(a) – obligation not to commit misconduct.

The allegation reported is [insert a description of the allegation].

The Protest Committee has decided to conduct a hearing under rule 69.2 to determine if these allegations are true, and if so, to decide what action (if any) to take.

You are required to attend a hearing on [date] at [time] in [location].

You may bring someone to advise you at the hearing, and someone to represent you. You are also entitled to call your own witnesses, but it is your responsibility to ensure that the witnesses are present at the time of the hearing.

If you have any questions concerning the hearing or any other aspect of the rule 69 process, please ask the [the chairman/jury secretary].

Yours,

NOTES FOR USE OF WORDING:

- Add relevant information into the square brackets
- The description of the allegation must be sufficiently full to allow the competitor to identify the alleged incident and prepare for the hearing.
- It is highly recommended to deliver the notification to the competitor personally.
- Keep a copy of the letter

71 Contents of report to the national authority or World Sailing

- 71.1 A report to the national authority or World Sailing should contain the following information:
 - 71.1.1 The name, dates and type of event
 - 71.1.2 The name, address and contact information of the competitor
 - 71.1.3 The name, judging qualification (if any) and contact information of the chairman of the protest committee
 - 71.1.4 The names and judging qualifications (if any) of the rest of the committee hearing the case
 - 71.1.5 Details of any investigator or person appointed to present allegations
 - 71.1.6 Confirmation the competitor had enough time to prepare for the hearing
 - 71.1.7 Confirmation the competitor was aware of the right to be advised and represented
 - 71.1.8 The facts found by the committee
 - 71.1.9 The conclusion and decision of the committee
 - 71.1.10 Details of the factors used to decide any penalty, such as:
 - 71.1.10.1 Any subsequent competitor action (i.e. apology)
 - 71.1.10.2 Any mitigating reasons put forward by the competitor
 - 71.1.10.3 Any aggravating circumstances which made the misconduct more serious
 - 71.1.11 Details of any penalty applied.
 - 71.1.12 If the report is made under rule 69.2(j)(3), the reasons why the protest committee has chosen to make the report.
 - 71.1.13 Any recommendation of the protest committee re. further action
- 71.2 Include copies of all relevant paperwork, include any materials gathered during an investigation.

72 Wording for official notice board following a hearing

PROTEST COMMITTEE NOTICE [#] - RESULT OF RULE 69 HEARING

On [date], the Protest Committee conducted a rule 69 hearing against [name].

If allegations not proven:-

[As a result of this hearing, the Committee has determined that [name] has not committed misconduct under rule 69.1(a).]

If allegations proven:-

[As a result of this hearing, the Committee has determined that [name] has committed misconduct under rule 69.1(a).]

If only a warning issued:-

[The Committee has issued [name] with a warning and no further action will be taken by the Committee.]

If a penalty was imposed:-

[The Committee has penalized [name] by [insert details of penalty].]

[The penalty will be reported to the [national authority].]

NOTES FOR USE OF WORDING:

- Add relevant information into the square brackets
- Omit wording in italics
- Do not add details of the nature of the misconduct or include the facts found. Only notify competitors of the result of the hearing.
- If in doubt over the contents of the notice, do not post it. This may be particularly relevant where the competitor is found not guilty (however this may be necessary if the original rule 69 hearing was posted on the hearing schedule)
- Keep a copy of the notice

APPENDIX L: YOUTH & JUNIOR COMPETITORS

73 Dealing with misconduct by youth and junior competitors

73.1 When competitors are very young or particularly inexperienced, then it can be necessary to take a different approach to dealing with misconduct.

73.2 This Guidance has already stated the following:

“The chairman must inform the competitor’s parents or guardians of the hearing, preferably in person.

The chairman must make sure the competitor understands the nature of the hearing and why it is occurring. Representation by a parent or other adult who can ask questions and speak for the competitor is necessary.

If the person representing the competitor is not a parent, the parents (if available) should be invited as observers.

The committee must take into account the age and experience of the competitor during their questioning. It may be appropriate to change the layout of the committee room from the usual ‘courtroom’ style.”

73.3 These principles should also be adopted for any competitor-official interaction. The younger (and more inexperienced) the competitor, the more time and thought must be given by the official about the appropriate method of dealing with unacceptable behaviour.

73.4 For very young competitors, the intimidating nature of a rule 69 hearing may be counter-productive in attempting to address the misconduct in question. Without prejudging any issue, the protest committee must consider the alleged conduct and how it should be dealt with. It is always open to escalate the process if the matter is more serious than first thought, but it is much harder to stop a rule 69 hearing and opt for a more informal option later.

73.5 For event-related behaviour which is questionable or at the lower end of the range of misconduct, then it would be appropriate for a race official (normally a judge or umpire) to speak to the competitor with his or her parents, guardian or coach, making clear what has happened, why it is wrong and what the consequences of repetition will be.

73.6 For more serious misconduct, then this process should be conducted before the protest committee by way of a formal interview.

73.7 For severe misconduct that must be addressed with a penalty, then a rule 69 hearing or a protest under rule 2 must be held.

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