

## **APPENDIX 6 – DISCIPLINARY, APPEALS AND REVIEW CODE**

**This Code is undergoing a full review following the approval of the Governance Reforms in November 2022 by the Annual General Meeting. This Code remains in force until the new Code is brought into force in 2024.**

### **35 MISCONDUCT AND DISCIPLINE**

#### **35.1 Introduction**

35.1.1 This Code defines the structures applicable to allegations of Misconduct and to other judicial processes in the sport of sailing.

35.1.2 This Introduction is intended to give an overview of the way in which the Code operates. The introduction does not define the structures, and Participants should carefully read all the applicable Parts of this Code.

35.1.3 There are six different structures in place, each designed to address the different circumstances which will apply to matters which will be addressed under them. Those structures are:

- (a) those relating to major international events (Part C);
- (b) those relating to all other events (Part D);
- (c) those relating to other disciplinary complaints (Part E); and
- (d) those relating to appeals and reviews of other decisions made by or within World Sailing (Part G).
- (e) those relating to Safeguarding Concerns (Part I)
- (f) those relating to Elections (Part J)

35.1.4 Except for Part I the whole structure and process is administered by the Judicial Board.

#### *Major International Events*

35.1.5 Except for those cases relating to Safeguarding Concerns under Part I, at major international events, an investigator (known as the Event Disciplinary Investigation Officer) is appointed and makes decisions as to whether cases of Misconduct should be presented to the protest committee. If a case is to be presented, the matter proceeds to the protest committee at the event, which makes decisions as to any penalties appropriate to the event in question. Appeals against such event-level decisions are governed by the RRS, which exclude appeals from decisions of an international jury acting in accordance with RRS Appendix N.

35.1.6 If the penalty imposed at the event is above a certain threshold, the protest committee must report the matter directly to World Sailing. World Sailing will

investigate and decide whether a charge of Misconduct should be laid against the Participants and be determined by an Independent Panel appointed by the Judicial Board. That Independent Panel will be empowered to impose sanctions wider than the event itself, including national or international sanctions, if it decides that the charge is proved.

- 35.1.7 An appeal lies to the Court of Arbitration for Sport against any decision by the Independent Panel (special arrangements apply for the Olympic and Paralympic Games).

#### *All Other Events*

- 35.1.8 At all other events the protest committee decides all issues of Misconduct at event level in accordance with the RRS. Appeals against such event-level decisions are governed by the RRS, which exclude appeals from decisions of an international jury acting in accordance with RRS Appendix N.
- 35.1.9 If the penalty imposed at the event is above a certain threshold the protest committee must report the matter to the Participant's MNA, which then has three months to decide whether a wider penalty should be imposed or not (subject to any extensions of time which may be granted by the Judicial Board). Each MNA will have its own procedures by which such decisions are to be made and it is the responsibility of each MNA to ensure that such processes are fair and compliant with due process.
- 35.1.10 An appeal against the MNA decision on the ground that the decision was wrong on a point of law or in excess of jurisdiction or where it is alleged that there was a procedurally unfair process, or the decision was biased will lie to either:
- (a) an Independent Appeal Panel appointed by the Judicial Board; or
  - (b) any other judicial decision making body that the MNA has previously nominated and which has been previously approved by World Sailing for that purpose.
- 35.1.11 If the MNA fails to reach any decision within 3 months, it must report the matter to World Sailing, and the Judicial Board shall treat the matter as if the event was a major international event.

#### *Other Disciplinary Cases*

- 35.1.12 Save for those cases relating to Safeguarding Concerns under Part I or Elections provided for in Part J any complaint of Misconduct concerning a World Sailing committee or commission member, World Sailing Member, World Sailing officer, World Sailing Race Official or a World Sailing Representative may be made by persons whom the Judicial Board considers to have a direct and legitimate interest in the alleged Misconduct. The complaint is to be made to the World Sailing Chief Executive Officer within 14 days of the alleged Misconduct unless that time is extended by the Judicial Board either retrospectively or otherwise.
- 35.1.13 For other disciplinary complaints, the complaint is made to the relevant MNA and processed under its rules of procedure and this Code.
- 35.1.14 For World Sailing -level complaints:
- (a) the Judicial Board will appoint a Disciplinary Investigation Officer to investigate and decide whether a charge should be laid against the person against whom the complaint is made;

- (b) if a charge is laid, the Judicial Board will appoint an Independent Panel to determine the case and impose any appropriate sanction; and
- (c) an appeal will lie to an Independent Appeal Panel appointed by the Judicial Board.

*Appeals and Reviews of Decisions made by World Sailing*

35.1.15 Where the World Sailing Constitution or Regulations permit a decision to be reviewed or appealed the appeal will be heard by an Independent Panel appointed by the Judicial Board. In certain cases, an appeal against the decision of the Independent Panel will lie to the Court of Arbitration for Sport. In other cases, there is no appeal against the decision of the Independent Panel.

**35.2 Part A – Obligations concerning Misconduct**

35.2.1 In this Code, a “Participant” means

- (a) any competitor, boat owner, support person; and
- (b) any World Sailing Council, committee or commission member, working party member, any alternates appointed, World Sailing Member (including any representatives sent by a Member to attend World Sailing Events, meetings or other official functions), World Sailing Officer, World Sailing Race Official or World Sailing Representative, or any person, official or body subject to the World Sailing Constitution or World Sailing Regulations, including any candidate or nominee for an elected position within World Sailing, whether successful or not; and
- (c) Any individual who was previously defined as a Participant under Regulation 35.2.1 (a) and Regulation 35.2.1 (b) and has since resigned or had his position terminated if the subject matter of the complaint arose when they were a Participant as defined in this Regulation 35.

35.2.2 In this Code “Misconduct” means a breach of Regulation 35.2.3, 35.2.4 and/or Regulation 35.3.9.

35.2.3 Participants shall not commit misconduct, as defined under RRS 69.1.

35.2.4 Participants defined by Regulation 35.2.1(b) shall:

- (a) not commit a breach of the World Sailing Constitution or Regulations that is deliberate, repeated or otherwise more than a misjudgement;
- (b) act with the utmost integrity, honesty and responsibility;
- (c) act in good faith towards each other with mutual trust and understanding in all their dealings;
- (d) treat others with respect (without discrimination);
- (e) not do anything which compromises, or is likely to compromise, the impartiality of those who work for World Sailing; and
- (f) not disclose information which they know, or ought reasonably to know, is confidential without the consent of a person authorised to give it or unless required by law to do so.

### **35.3 Part B –Bodies, Personnel and General Provisions**

#### *The Judicial Board*

35.3.1 The Judicial Board is appointed and constituted under Article 77 of the World Sailing Constitution.

35.3.2 The Judicial Board is responsible and has authority for:

- (a) overall administrative oversight of the disciplinary system of World Sailing except for those cases relating to Safeguarding Concerns under Part I, and ensuring that all disciplinary functions are carried out by appropriate persons or panels and in compliance with World Sailing Conflict of Interest Policy;
- (b) except for those cases relating to Safeguarding Concerns under Part I, overall administrative oversight of the appellate and judicial system of World Sailing and ensuring that all appeals and reviews permitted by the World Sailing Constitution or Regulations of any decisions made within or by World Sailing are carried out by appropriate persons or panels and in compliance with World Sailing Conflict of Interest Policy;
- (c) appointing and maintaining lists of people who may sit on Independent Panels and Independent Appeals Panels to carry out decision making in respect of disciplinary issues and other matters of an appellate or review nature;
- (d) appointing Disciplinary Investigating Officers to major international events, or to disciplinary matters in which World Sailing has become involved by virtue of this Code;
- (e) appointing an Elections Ad Hoc Investigator and Elections Ad Hoc Independent Panel specifically to review and determine any complaints under Part J, Elections.
- (f) appointing Independent Panels and Independent Appeals Panels to make decisions and impose sanctions in relation to disciplinary matters in which World Sailing has become involved by virtue of this Code and other matters of an appellate or review nature;
- (g) issuing rules of procedure for all forms of hearings and procedures contemplated under this Code;
- (h) publishing guidance on disciplinary matters (including recommended sanctions);
- (i) ensuring cases are conducted expeditiously and deciding whether to grant any requests for extensions of time;
- (j) maintaining and publishing a database of Independent Panel, Independent Appeals Panels and MNA decisions in relation to disciplinary matters made under the auspices of this Code;
- (k) the proper education and training of Disciplinary Investigating Officers and Independent Panel members; and
- (l) determining whether a complaint, report or appeal received by World Sailing:
  - (i) it is outside the jurisdiction of World Sailing and the provisions of the Code;

- (ii) it is, not made, within the relevant time period for making such a complaint or report and that time period has not been extended;
- (iii) it is not made by persons who have a direct and legitimate interest in the alleged misconduct; or
- (iv) it is vexatious, frivolous, and/or has already been addressed by the disciplinary, judicial and/or appellate systems of World Sailing.

#### *Disciplinary Investigating Officer*

- 35.3.3 A Disciplinary Investigating Officer is an official appointed by the Judicial Board who is responsible for one or more of the following (depending upon the stage of the process in respect of which he is appointed)(for the avoidance of doubt the Elections Ad Hoc Investigator, appointed under Part J of the Code, is not a Disciplinary Investigating Officer):
- (a) the investigation of allegations of Misconduct, except for those cases relating to Safeguarding Concerns under Part I, at any event at which he is appointed;
  - (b) presenting any case of Misconduct before a protest committee at any event at which he is appointed;
  - (c) the investigation of reports received by World Sailing which require investigation;
  - (d) any decision to charge a Participant for Misconduct; and
  - (e) the prosecution of such cases before an Independent Panel.
- 35.3.4 A Disciplinary Investigating Officer shall have the right to conduct any investigations they consider appropriate and may gather evidence, both documentary, physical or oral, from any person or body that is willing to speak with them. In respect of any Participant, a Disciplinary Investigating Officer shall have the right to conduct an initial interview and follow-up interviews (as deemed necessary by them), with any Participant in furtherance of investigation of the possibility of any commission of act(s) of Misconduct, subject as follows:
- (a) the date and time of interviews shall be determined by the Disciplinary Investigating Officer with reasonable allowances made for Participants' racing commitments and schedules;
  - (b) a Participant has the right to be accompanied to an interview (including by a legal representative at his own cost);
  - (c) interviews will be recorded and shall be used for transcription and evidentiary purposes and thereafter will be retained by World Sailing for a minimum of 3 years in a secure place;
  - (d) a Participant has the right to request an interpreter (the interpreter shall be arranged by the Participant and provided at their own cost); and
  - (e) a recording or a transcript of an interview shall be provided to the Participant upon request within a reasonable time following its conclusion.

#### *Independent Panel*

- 35.3.5 An Independent Panel is a panel appointed by the Judicial Board to hear and adjudicate upon any matter in which World Sailing becomes involved by virtue of

this Code (for the avoidance of doubt, the Elections Ad Hoc Independent Panel, appointed under Part J of this Code, is not an Independent Panel).

- 35.3.6 Except as set out in Regulation 35.3.7, an Independent Panel shall consist of either:
- (a) three persons, in which case its chairman shall be legally qualified. As far as possible, at least one member of a 3-person Independent Panel shall be an active competitor. No World Sailing employee, World Sailing officer, World Sailing Committee or Commission member or Judicial Board member shall be appointed as a member of a 3-person Independent Panel; or
  - (b) one person, in which case they shall be legally qualified. No World Sailing committee or commission member, World Sailing employee, World Sailing officer or World Sailing Race Official or Judicial Board member shall be appointed as a one-person Independent Panel.
- 35.3.7 If an Independent Panel is appointed to exercise any appellate functions under this Code (an Independent Appeals Panel), it shall consist of three legally qualified persons appointed by the Judicial Board. No World Sailing employee or World Sailing officer shall be appointed as a member of an Independent Appeals Panel.
- 35.3.8 The Judicial Board shall decide upon the constitution of the Independent Panel or Independent Appeals Panel in any individual case, and shall appoint it, having regard to all the circumstances of the case, and to any guidance which it has published. Any challenge to the constitution of the Panel shall be made in accordance with the time limits and procedure set out in the relevant Rules of Procedure and shall be decided by the Judicial Board. There shall be no appeal against the decision of the Judicial Board in this respect.

#### *General Provisions*

- 35.3.9 All Participants must take all reasonable measures to assist Disciplinary Investigating Officers in the collection of evidence. If a Disciplinary Investigating Officer requests the production of evidence from any person that person shall (subject to considerations of legal professional privilege or other legal impediment) be under an obligation to provide it. The request for production must be reasonable and relevant to the allegations under investigation. Failure to comply with a Disciplinary Investigating Officer's request without reasonable excuse shall be regarded as Misconduct.
- 35.3.10 Participants shall be determined to be immediately available at the most current postal address held by World Sailing, by an MNA or by the Organising Authority of an event concerning the investigation which has been commenced.
- 35.3.11 Any notice delivered to a Participant shall be deemed to have been received by the Participant on the date of delivery to such an address as recorded in the confirmation of delivery provided by any courier or postal service. Any other method of secure and confidential communication may be used including email and fax but the burden of proving delivery in such circumstances shall rest with the person delivering the document.
- 35.3.12 All decisions made under the auspices of this Code by any Independent Panel or Independent Appeals Panel, or by any MNA, shall be published by the Judicial Board, save that the Judicial Board may, in its absolute discretion (against which there is no appeal):

- (a) decide not to publish a decision if such publication is inappropriate in all the circumstances; or
  - (b) decide to redact parts of the decision and publish only the redacted copy.
- 35.3.13 Where any MNA is required under this Code to reach any decision on any disciplinary or other matter, that National Authority shall use its best endeavours to ensure that the procedures by which it reaches such a decision are fair and appropriate having regard to all the circumstances of any individual case.
- 35.3.14 Subject to the rights of appeal provided in this Code, all decisions made under this Code shall be recognized by World Sailing and all MNAs, which shall take any necessary action to render such decision effective.
- 35.4 Part C – Misconduct at Major International Events**
- 35.4.1 Save for those cases relating to Safeguarding Concerns under Part I, the procedures in this Part C apply only to the following events.
  - (a) Olympic and Paralympic Sailing Competition;
  - (b) World Sailing Events which have been designated by the Chief Executive Officer as major international events;
  - (c) the America's Cup and its associated events; and
  - (d) the Ocean Race.
- 35.4.2 The Judicial Board shall appoint and remove persons to an Investigations Panel (including a Chair and Vice-Chair). Members of the Panel shall include sailors, race officials and other legally qualified persons who are considered by the Judicial Board to be qualified to carry out the functions of the Investigations Panel.
- 35.4.3 The Investigations Panel advises Disciplinary Investigating Officers acting under Part C of this Code on the exercise of their functions (including advising them as far as practicable on investigations carried out by them). Disciplinary Investigating Officers must consult the Panel as far as practicable. Members of the Panel must keep all Panel discussions confidential. The names of the Panel members and of Disciplinary Investigating Officers appointed under Part C shall be published by the Chief Executive Officer.
- 35.4.4 The Judicial Board shall appoint a Disciplinary Investigating Officer (the "Event Disciplinary Investigating Officer") to investigate at the event complaints of Misconduct. If the Event Disciplinary Investigating Officer or a member of the Investigations Panel is a member of the international jury of the event, then they shall not be part of any hearing panel and shall not take part in any discussions or decisions concerning the case. The international jury remains properly constituted under RRS Appendix N if up to two of its number are unable to hear a case due to appointment under this Regulation. An Event Disciplinary Investigating Officer may authorise individuals to gather evidence and present allegations to the protest committee on their behalf and under their supervision.
- 35.4.5 Any complaint of Misconduct, save for those cases relating to Safeguarding Concerns under Part I, shall be referred to the Event Disciplinary Investigating Officer. Referrals shall be made within 48 hours of the alleged Misconduct occurring unless the Event Disciplinary Investigating Officer determines, in his absolute discretion (against which there is no appeal), that there is good reason to extend this time.
- 35.4.6 Following an investigation the Event Disciplinary Investigating Officer shall,;

- (a) take no further action; or
- (b) charge any Participant with Misconduct, but only if:
  - (i) there is a realistic prospect that a finding of Misconduct would be made based on the information available; and
  - (ii) it is in the best interests of the sport to make the charge.

The decision of the Event Disciplinary Investigating Officer under this Regulation 35.4.6 is final and is not subject to any review or appeal.

- 35.4.7 The decision of the Event Disciplinary Investigating Officer made under Regulation 35.4.6 shall be communicated in writing to the Participant and to the protest committee at the first reasonable opportunity.

*Protest Committee Hearing and Decision*

- 35.4.8 Except for those cases relating to Safeguarding Concerns under Part I, if the Event Disciplinary Investigating Officer decides that a charge of Misconduct should be made against the Participant, that case shall be considered by and adjudicated upon by the protest committee in accordance with the procedures in RRS 69 as modified by this Part of the Code. The protest committee may impose any sanctions relevant to the event as provided for in the RRS. Any right of appeal of that decision will be governed by the RRS.
- 35.4.9 The protest committee shall report its decision, and provide all recordings of the hearing and all documents or other evidence available to it, to World Sailing if it:
- (a) imposes a penalty greater than one non-excludable disqualification from a race;
  - (b) excludes the person from the event or venue; or
  - (c) in any other case if it considers it appropriate to do so (including under RRS 69.2(k)).
- 35.4.10 When a report is received by World Sailing under Regulation 35.4.7, the Judicial Board shall refer it to the Investigations Panel for review. No member of the Panel who was the Event Disciplinary Investigating Officer (or a person authorized by the Event Disciplinary Investigating Officer in accordance with Regulation 35.4.4) or who was a race official at the event shall take part in its proceedings. The Investigations Panel shall have the power and responsibilities of a Disciplinary Investigating Officer under this Code, and if it charges a Participant, must appoint one of its members to conduct the proceedings on behalf of the Panel.
- 35.4.11 Following the review, the Investigations Panel shall in its absolute discretion (against which there is no appeal):
- (a) take no further action; or
  - (b) issue a warning to any Participant in the report, and thereafter take no further action; or
  - (c) charge any Participant with any act(s) of Misconduct which, in the opinion of the Investigations Panel, may warrant disciplinary action wider than the event jurisdiction of the protest committee.



- 35.4.12 The decision of the Investigations Panel made under Regulation 35.4.11 shall be communicated in writing to the Participant and to the Judicial Board at the first reasonable opportunity. The Chief Executive Officer shall publish the decision of the Investigations Panel unless the Judicial Board decides there is good reason not to do so. If publishing a decision under Regulation 35.4.11(a), the decision shall be anonymised.
- 35.4.13 Within 14 days of receipt of a charge of Misconduct, the Judicial Board shall appoint an Independent Panel to determine the charge.
- 35.4.14 Rules of Procedure published by the Judicial Board shall apply to the conduct, determination and hearing of the charge by the Independent Panel and to the time limits for any appeal.
- 35.4.15 The sanctions that may be imposed by the Independent Panel following a proven charge of Misconduct are set out in Part F of this Code. When considering sanctions, the Independent Panel shall have regard to:
- (a) any sanction guidelines published by the Judicial Board prior to the event; and
  - (b) any published decisions under RRS 69 and/or this Regulation which are consistent with relevant sanction guidelines (such decisions will be a guide but are in no sense binding precedents).

*Appeals against the Decision of the Independent Panel*

- 35.4.16 World Sailing and Participants hereby agree to respect and be bound by the decision of any Independent Panel, subject only to the right of appeal set out in Part H of this Code.

*General Procedures relating to Charging*

- 35.4.17 If a charge is issued, as soon as practicable a written notice of the charge shall be provided to the Participant and the protest committee and/or Judicial Board (as appropriate), which shall:
- (a) state briefly the nature of the alleged Misconduct;
  - (b) identify the rule(s) alleged to have been breached; and
  - (c) provide copies of documents or other material referred to in the charge.
- 35.4.18 A single charge may be issued against a Participant in respect of more than one instance of Misconduct, but the charge shall state separately the nature of each alleged act of Misconduct and the provision(s) alleged to have been breached and shall have effect as separate charges.
- 35.4.19 Where the subject matter of or facts relating to a charge or charges against one or more Participant(s) are sufficiently linked (including, but not limited to, where Misconduct is alleged to have been committed at the same time or place or where there is common evidence), the Event Disciplinary Investigating Officer or the Investigations Panel (as appropriate) may consolidate the disciplinary proceedings so that they are conducted together and determined at a joint hearing, subject to the protest committee and/or Independent Panel appointed deciding upon some alternative procedure.

**35.5 Part D – All Other Events**

- 35.5.1 Except for those cases relating to Safeguarding Concerns under Part I, the provisions of this Part of this Code apply to all events raced under the RRS except those listed in Regulation 35.4.1.
- 35.5.2 All complaints, allegations or reports of Misconduct shall be considered and adjudicated upon by the protest committee in accordance with the procedures in RRS 69. The protest committee may impose any sanctions relevant to the event as provided for in RRS 69. Any right of appeal of that decision will be governed by the RRS.
- 35.5.3 The protest committee shall report its decision, and provide all recordings of the hearing and all documents or other evidence available to it, to the MNA of the Participant if it:
- (a) imposes a penalty greater than one non-excludable disqualification from a race;
  - (b) excludes the person from the event or venue; or
  - (c) in any other case if it considers it appropriate.

*Review by the MNA and further action*

- 35.5.4 When a report is received by a MNA under Regulation 35.5.3, it shall review the report and may conduct a further investigation in relation to the matters in the report. However, the Judicial Board may direct that the report shall be transferred to and conducted by World Sailing under Regulation 35.6.12.
- 35.5.5 The MNA shall, within three months of receipt of the report from the protest committee, issue a decision in writing in which it decides:
- (a) to take no further action; or
  - (b) to issue a warning to any Participant in the report, and thereafter take no further action; or
  - (c) that a case of Misconduct has been made out and whether any and if so what further sanction within the jurisdiction of the MNA should be imposed.
- 35.5.6 The decision of the MNA made under Regulation 35.5.5 shall be communicated in writing to the Participant and to the Judicial Board at the first reasonable opportunity.
- 35.5.7 The sanctions that may be imposed by the MNA are set out in Part F of this Code. When considering sanctions, the MNA shall have regard to:
- (a) any sanction guidelines published by the Judicial Board prior to the event; and
  - (b) any published decisions under RRS 69 and/or this Regulation which are consistent with relevant sanction guidelines (such decisions will be a guide but are in no sense binding precedents).
- 35.5.8 The time for reaching a decision set out in Regulation 35.5.5 may be extended by the Judicial Board on written application by the MNA.
- 35.5.9 If a MNA fails to reach a decision within the time limits prescribed in Regulation 35.5.5 (or any extended time):
- (a) the MNA shall report that failure to the Judicial Board; and

- (b) any person with a sufficient connection with the subject matter of the report may bring that failure to the attention of the Judicial Board.
- 35.5.10 If the Judicial Board becomes aware of any failure of a MNA to reach a decision within the specified time, it may then, in its absolute discretion (in respect of which there is no appeal):
- (a) extend the time for the MNA to reach its decision; and/or
  - (b) require the MNA to reach a decision within any such extended time; or
  - (c) take over conduct of the report.
- 35.5.11 In the event that the Judicial Board takes over conduct of the report, such conduct shall be in accordance with Regulations 35.4.8 to 35.4.16, save that the time limits will run from the date that the Judicial Board took over conduct of the report. The MNA shall provide to the Judicial Board, all recordings of any hearing and all documents or other evidence available to it.

*Appeals against the decision of the MNA*

- 35.5.12 There is a right of appeal from the decision of the MNA to:
- (a) an alternative dispute resolution body appointed by the MNA if those arrangements have been approved by World Sailing; or
  - (b) if World Sailing has not approved any alternative arrangements, to the Judicial Board if, and only if, the decision of the MNA imposes a suspension or revocation of more than three months on the Competition Eligibility or World Sailing Eligibility of the Participant and it is alleged the decision was wrong on a point of law; in excess of jurisdiction; or, where it is alleged that there was a procedurally unfair process and/or the decision was biased;
- or
- (c) the Judicial Board if the Chief Executive Officer considers that the decision of the MNA is unduly lenient.
- 35.5.13 Any appeal shall be made in writing within fourteen days of the decision of the MNA.
- 35.5.14 If the appeal is made to the Judicial Board, the Board shall, within 14 days of receipt of the appeal appoint an Independent Appeal Panel to hear and determine the appeal.
- 35.5.15 The procedure to be adopted by the Independent Appeal Panel will be governed by Rules of Procedure published by the Judicial Board.
- 35.5.16 World Sailing, MNAs and Participants hereby agree to be bound by the decision of the Independent Appeal Panel determining the appeal, or by the decision of the alternative dispute resolution body appointed. There will be no appeal from such a decision.

**35.6 Part E - Any Other Disciplinary Complaints**

- 35.6.1 Except for those cases relating to Safeguarding Concerns under Part I, the provisions of this Part of this Code apply to all complaints of Misconduct received by World Sailing or by MNAs which cannot be addressed under Parts C or D above. However it does not apply to complaints that could have been brought under any other Part of this Code, but which were excluded by virtue of time limits or decisions made under that Part.

- 35.6.2 All such complaints must be made:
- (a) in writing to the World Sailing Chief Executive Officer if the complaint relates to Misconduct of any World Sailing committee or commission member, World Sailing officer, World Sailing Race Official or World Sailing Representative whilst acting in that capacity, or any World Sailing committee, commission or body;
  - (b) in writing to the equivalent person at the MNA of the Participant who is the subject of the complaint in all other instances;
  - (c) within 14 days of the alleged Misconduct, unless that time is extended by the Judicial Board either retrospectively or otherwise; and
  - (d) by a race official, competitor, technical delegate, MNA or authorised member of an organising authority or an international class association, Participant or other person or body with sufficient standing or relationship to the alleged Misconduct as is permitted by the Judicial Board.
- 35.6.3 Notwithstanding Regulation 35.6.2, the World Sailing Chief Executive Officer or the equivalent person at an MNA may initiate a complaint of Misconduct within 14 days of the information becoming available to them which justifies them making a decision to initiate a complaint. For the purpose of this Regulation, the World Sailing Chief Executive Officer or the equivalent person at an MNA is entitled to investigate matters of which they have become aware so as to enable a proper decision to be taken without the 14-day period commencing during such investigations.

#### *Complaints to MNAs*

- 35.6.4 The MNA shall review the complaint and may conduct an investigation in relation to the matters in the complaint. However, the Judicial Board may direct that the complaint shall be transferred to and conducted by World Sailing under Regulation 35.6.12.
- 35.6.5 The MNA shall, within three months of receipt of the complaint, issue a decision in writing in which it decides:
- (a) to take no further action; or
  - (b) to issue a warning to any person the subject of the complaint, and thereafter take no further action; or
  - (c) that a case of Misconduct has been proved and whether any and if so what further sanction within the jurisdiction of the MNA should be imposed.
- 35.6.6 The decision of the MNA made under Regulation 35.6.5 of this Part of the Code shall be communicated in writing to the Participant, to the Judicial Board, and the complainant at the first reasonable opportunity.
- 35.6.7 The sanctions that may be imposed by the MNA are set out in Part F. When considering sanctions, the MNA shall have regard to:
- (a) any sanction guidelines published by the Judicial Board prior to the event;
  - (b) any published decisions under RRS 69 and/or this Regulation which are consistent with relevant sanction guidelines (such decisions will be a guide but are in no sense binding precedents).
- 35.6.8 The time for reaching a decision set out in Regulation 35.6.5 may be extended by the Judicial Board on written application by the MNA.

- 35.6.9 If a MNA fails to reach a decision within the time limits prescribed in Regulation 35.6.5 (or any extended time), any person with a sufficient connection with the subject matter of the complaint may bring that failure to the attention of the Judicial Board.
- 35.6.10 The Judicial Board may then, in its absolute discretion (in respect of which there is no appeal):
- (a) extend the time for the MNA to reach its decision; and/or
  - (b) require the MNA to reach a decision within any such extended time; or
  - (c) take over conduct of the complaint.
- 35.6.11 In the event that the Judicial Board takes over conduct of the complaint, such conduct shall be in accordance with Regulations 35.4.8 to 35.4.16 of this Code, save that the time limits will run from the date that the Judicial Board took over conduct of the complaint. The MNA shall provide to the Judicial Board, all recordings of any hearing and all documents or other evidence available to it.

#### *Complaints to World Sailing*

- 35.6.12 Except for those cases relating to Safeguarding Concerns under Part I, when a complaint is received by World Sailing under this Part of the Code, it shall be passed by the Chief Executive Officer to the Judicial Board. The Judicial Board will decide if the complaint should be summarily dealt with under Regulation 35.3.2 (k)(i – iv). If it is not the Judicial Board shall within fourteen days of receipt of the complaint appoint a Disciplinary Investigating Officer to investigate it.
- 35.6.13 Following an investigation, the Disciplinary Investigating Officer shall:
- (a) take no further action; or
  - (b) charge any Participant with Misconduct, but only if:
    - (i) there is a realistic prospect that a finding of Misconduct would be made based on the information available;
    - (ii) it is in the best interests of the sport to make the charge; and
    - (iii) if there has been a previous finding of Misconduct at an event, the case warrants further disciplinary action under the jurisdiction of World Sailing.

The decision of the Disciplinary Investigating Officer under this Regulation 35.6.13 is final and is not subject to any review or appeal.

- 35.6.14 The decision of the Disciplinary Investigating Officer made under Regulation 35.6.13 shall be communicated to the Participant and the complainant at the first reasonable opportunity.

#### *Procedures relating to Charging by World Sailing*

- 35.6.16 If a charge is issued against a Participant, as soon as practicable a written notice of the charge shall be provided to the Participant and to the Judicial Board, which shall:
- (a) state briefly the nature of the alleged Misconduct;

- (b) identify the rule(s) alleged to have been breached; and
  - (c) provide copies of documents or other material referred to in the charge.
- 35.6.17 A single charge may be issued against a Participant in respect of more than one instance of Misconduct, but the charge shall state separately the nature of each alleged Misconduct and the provision(s) alleged to have been breached and shall have effect as separate charges.
- 35.6.18 Where the subject matter of or facts relating to a charge or charges against one or more Participant(s) are sufficiently linked (including, but not limited to, where Misconduct is alleged to have been committed at the same time or place or where there is common evidence), the Disciplinary Investigating Officer may consolidate the disciplinary proceedings so that they are conducted together and determined at a joint hearing, subject to the Independent Panel appointed deciding upon some alternative procedure.

#### *Hearing and Determination of the Charge*

- 35.6.19 Within fourteen days of receipt of a charge of Misconduct, the Judicial Board shall appoint an Independent Panel to determine the charge.
- 35.6.20 Rules of procedure published by the Judicial Board shall apply to the conduct, determination and hearing of the charge by the Independent Panel and to the time limits for any appeal.
- 35.6.21 The penalties that may be imposed by the Independent Panel following a proven charge of Misconduct are set out in Part F. When considering sanctions, the Independent Panel shall have regard to:
- (a) any sanction guidelines published by the Judicial Board prior to the event;
  - (b) any published decisions under RRS 69 and/or this Regulation which are consistent with relevant sanction guidelines (such decisions will be a guide but are in no sense binding precedents).

#### *Appeals against the decision of the MNA or the Independent Panel*

- 35.6.22 World Sailing and Participants hereby agree to respect and be bound by the decision of any Independent Panel, subject only to the right of appeal set out below.
- 35.6.23 There is a right of appeal from the decision of the MNA to:
- (a) an alternative dispute resolution body appointed by the MNA if those arrangements have been approved by World Sailing; or
  - (b) if World Sailing has not approved any alternative arrangements, to the Judicial Board if, and only if, the decision of the MNA imposes a suspension or revocation of more than three months on the Competition Eligibility or World Sailing Eligibility of the Participant and it is alleged the decision was wrong on a point of law; or in excess of jurisdiction; or where it is alleged that there was a procedurally unfair process or the decision was biased
- 35.6.24 There is a right of appeal from the Independent Panel if, and only if, the decision imposes:
- (a) a suspension or revocation of more than three months on the Competition Eligibility or World Sailing Eligibility in the case of a competitor, boat owner or support person; or

- (b) any sanction (except a warning, reprimand, admonishment or fine) in the case of World Sailing committee or commission members, World Sailing officers, World Sailing Race Officials or World Sailing Representatives.

However, the right of appeal under Regulation 35.6.24 shall only be available on the grounds that the decision was: wrong on a point of law; in excess of jurisdiction; or where it is alleged that there was a procedurally unfair process, or the decision was biased.

- 35.6.25 Any appeal shall be made in writing within fourteen days of the decision appealed against.
- 35.6.26 If the appeal is made to the Judicial Board, the Judicial Board shall, within fourteen days of receipt of the appeal appoint an Independent Panel (the Independent Appeals Panel) to hear and determine the appeal.
- 35.6.27 The procedure to be adopted by the Independent Appeals Panel will be governed by Rules of Procedure published by the Judicial Board.
- 35.6.28 World Sailing, MNA and Participants hereby agree to be bound by the decision of the Independent Appeal Panel, or by the decision of the alternative dispute resolution body appointed. There will be no appeal from such a decision.

## **35.7 Part F – Penalties**

- 35.7.1 The following penalties may be imposed on Participants by World Sailing or MNAs:
  - (a) no sanction;
  - (b) a warning, admonishment or reprimand;
  - (c) a fine not exceeding €1000;
  - (d) a direction not to compete or officiate in a particular event or class (or types of event or classes);
  - (e) suspension or revocation of Competition Eligibility and/or World Sailing Eligibility (or the imposition of conditions on such Eligibility);
  - (f) suspension or removal from office in the case of World Sailing officers, World Sailing Committee and Commission members or World Sailing Representatives;
  - (g) suspension or removal of a certificate of appointment in the case of World Sailing Race Officials (or the imposition of conditions on such appointment);
  - (h) any sanction set out in the World Sailing Code of Ethics;
  - (i) make a report to an MNA, World Sailing Class, World Sailing (under another Regulation or the Racing Rule of Sailing) or any other appropriate organisation; and/or
  - (j) any other sanction which it is within the powers of World Sailing or the MNA to impose.

## **35.8 Part G – Appeals and Reviews of Other Decisions made by or within World Sailing**

- 35.8.1 Except for those cases relating to Safeguarding under Part I, the provisions of this Part of this Code apply to any appeal or review of any decision made within or by World Sailing where the World Sailing Constitution and/or Regulations expressly permit any such appeal or review.
- 35.8.2 Any appeal or request for a review shall be made in writing to the Chief Executive Officer within the relevant time limit specified in the World Sailing Constitution or Regulations, or if no such time limit is specified, within fourteen days of the notification of the decision being appealed or reviewed.
- 35.8.3 The Chief Executive Officer shall pass the appeal or request for review to the Judicial Board, who shall, decide whether to summarily deal with the appeal or request under Regulation 35.3.2(k). If not the Judicial Board shall within fourteen days of receipt, appoint an Independent Panel to hear and determine the appeal or review.
- 35.8.4 Rules of Procedure published by the Judicial Board shall apply to the conduct, determination and hearing of the appeal or review by the Independent Panel.
- 35.8.5 World Sailing and Participants hereby agree to respect and be bound by the decision of any Independent Panel, subject only to the right of appeal set out in Part H of this Code.

### **35.9 Part H – Appeals to the Court of Arbitration for Sport**

- 35.9.1 No appeal from a decision of World Sailing lies to the Court of Arbitration for Sport except:
- (a) in accordance with this Regulation 35.9; or
  - (b) under Rule 61(2) of the Olympic Charter for disputes arising on the occasion of, or in connection with, the Olympic Games; or
  - (c) any decision made by an Elections Ad Hoc Independent Panel which disqualifies a candidate or nominee from standing as a candidate or nominee in a World Sailing Election.
- 35.9.2 There is a right of appeal from a decision of an Independent Panel which directly concerns the eligibility of a person to participate in a major international event (as listed in Regulation 35.4.1) by way of arbitration before the Court of Arbitration for Sport in Lausanne, Switzerland. An appeal may be brought:
- (a) by World Sailing; or
  - (b) by the Participant.
- 35.9.3 The time limit for lodging an appeal shall be fourteen days from receipt of the written decision of the Independent Panel appealed against. The arbitration shall be conducted in accordance with the Code of Sport-Related Arbitration. The Court of Arbitration for Sport panel will consist of one arbitrator and the language of the arbitration will be English.

### **35.10 Part I SAFEGUARDING**

- 35.10.1 World Sailing seeks to protect everyone involved in Sailing in the belief that all athletes, coaches, officials, staff, and volunteers have the right to participate in sport in a safe and inclusive environment that is free from all forms of harm, harassment, abuse, exploitation, violence, and neglect.



- 35.10.2 In this Code any misconduct that is a Safeguarding Concern, which falls within 35.10.4, will be dealt with under this Regulation 35.10 Part I and the other Parts of this Code will not apply to those concerns unless, in accordance with the Safeguarding Procedures, it is determined that the matter is not a Safeguarding Concern.
- 35.10.3 Safeguarding means the measures taken to protect individuals from Harassment and/or Abuse and a Safeguarding Concern means an allegation of any conduct, concern, incident, suspicion, action, behaviour, or failure to act in a way which has caused or which causes or which may cause Abuse and/or Harassment of an Adult or Child.
- 35.10.4 The provisions of this Regulation 35.10 Part (I) of this Code apply to any of the following:
- (a) Safeguarding Concerns against a competitor, boat owner or support person occurring at a World Sailing Event defined under the World Sailing Safeguarding Policy as:
- the Olympic Sailing Competition;
  - the World Sailing Youth World Championships; and
  - the World Sailing Combined World Championships.
- (b) Safeguarding Concerns against a World Sailing Officer (Board, Council, Committee or Commission Members, including any alternate appointed to a World Sailing Officer post), Working Party Members, World Sailing Member National Associations (MNA) representative sent by the MNA to attend World Sailing Events, meetings or other official functions, World Sailing Class Associations representative sent by the Class to attend World Sailing Events, meetings, World Sailing Race Official or World Sailing accredited guest invited by World Sailing to attend World Sailing Events, meetings or other official functions.
- (c) Safeguarding Concerns against a staff, consultant or contractor of World Sailing.
- 35.10.5 Any Safeguarding Concerns which do not fall within 35.10.4 should be reported to the MNA/Class/Special Event where the allegation arose and/or if appropriate/or required by the World Sailing Safeguarding Policy, to the relevant authorities such as local police and/or local government authorities.
- 35.10.6 All Safeguarding Concerns which fall within 35.10.4 shall be considered and adjudicated upon in accordance with the World Sailing Safeguarding Policy and World Sailing Safeguarding Procedures.
- 35.11 Part J ELECTIONS
- 35.11.1 The Judicial Board shall appoint an Elections Ad Hoc Investigator and Elections Ad Hoc Independent Panel in the year that World Sailing Elections will take place.
- 35.11.2 The Judicial Board shall issue Judicial Board (Elections) Rules of Procedure for the process of any complaints contemplated under this Part J Elections section of the Disciplinary Code.

- 35.11.3 Any complaint of an alleged breach of the World Sailing Election Rules, shall be considered and adjudicated upon in accordance with the World Sailing Election Rules and the Judicial Board (Elections) Rules of Procedures and may not form the basis of an action under any other part of the Code.
- 35.11.4 Any complaint of an alleged breach of the World Sailing Election Rules shall be made to the World Sailing Election Committee. Complaints shall be made within 5 working days of the alleged breach occurring or within 14 days of the conduct relating to an Election coming to light.
- 35.11.5 The World Sailing Election Committee shall have absolute discretion to extend the deadlines specified in 35.11.4 on good cause shown.
- 35.11.6 Upon receipt of a complaint, or upon becoming aware of an alleged breach of the World Sailing Election Rules the World Sailing Election Committee shall act in accordance with the Election Rules and may determine, in its absolute discretion, (against which there is no appeal):
- (a) to make written observations to the candidate or nominee; or
  - (b) to issue a notice of concern to the candidate or nominee; or
  - (c) to take no further action; or
  - (d) to refer the complaint to the Elections Ad Hoc Investigator for process in accordance with the Judicial Board (Elections) Rules of Procedure.
- 35.11.7. The Elections Ad Hoc Independent Panel shall have the power to sanction a Participant where a breach of the World Sailing Election Rules is proved. The following are examples of sanctions that may be imposed by the Panel where a breach is proved:
- (i) a formal warning;
  - (ii) a reprimand;
  - (iii) a fine;
  - (iv) a declaration that a candidate or nominee is required to make a corrective statement
  - (v) a declaration that a candidate or nominee is disqualified from standing in the World Sailing Elections.
- 35.11.8 World Sailing, MNAs and Participants hereby agree to respect and be bound by the decisions of the Elections Ad Hoc Investigator and/or Elections Ad Hoc Independent Panel subject only to the right of appeal set out in Part H of this Code.

## **SECTION 4 - OTHER**

### **36 ETHICS**

#### ***Establishing and amending the Code of Ethics***

- 36.1 There shall be a body of rules concerning the ethical behaviour and standards known as the World Sailing Code of Ethics ("the Code").
- 36.2 World Sailing and each of its members, any candidate for election to a World Sailing office or MNA office, members of its Council and its Committees, Commissions and working parties, World Sailing Race Officials, or any person, official or body subject to the World Sailing Constitution or World Sailing Regulations, all other World Sailing Representatives, Organising Committees of any World Sailing events and World Sailing Classes ("Parties") shall be bound by, respect and comply with the World Sailing Code of Ethics.
- 36.3 The Code shall be adopted by Council from time to time.

#### ***Complaints under the Code***

- 36.4.1 Any complaint, allegation or report that a breach of the Code has been or may have been committed by a Party (a "Complaint") shall be submitted in writing to the Chief Executive Officer. Complaints must be submitted within 14 days of the alleged breach, unless that time is extended by the Ethics Commission either retrospectively or otherwise.
- 36.4.2 The Ethics Commission may summarily dismiss a complaint, allegation or report if it considers it:
- (a) is outside the jurisdiction of World Sailing and the provisions of the Code;
  - (b) is not made within the relevant time period for making such a complaint or report and that time period has not been extended;
  - (c) is not made by persons who have a direct and legitimate interest in the alleged breach; or
  - (d) is vexatious, frivolous, and/or has already been addressed by the disciplinary, judicial and/or appellate systems of World Sailing.
- 36.4.3 All complaints, allegations or reports which are not summarily dismissed shall be referred to an Ethics Officer.
- 36.5 An Ethics Officer is an official appointed by the Ethics Commission who is responsible for one or more of the following:
- (a) the investigation of Complaints;
  - (b) any decision to charge a Party with a breach of the Code;
  - (c) the prosecution of such cases before the Ethics Commission;
  - (d) any decision to appeal a decision of the Ethics Commission; and
  - (e) the prosecution of such appeals before an Independent Appeal Panel.
- An Ethics Officer cannot be a person listed in Regulation 35.2.1(b)..

- 36.6 An Ethics Officer shall have the right to conduct interviews with any Party in furtherance of investigation of the Complaint (or any potential breach of the Code of Ethics brought to his attention during the investigation) subject as follows:
- (a) the date and time of interviews shall be determined by the Ethics Officer with reasonable allowances made for the Party's commitments and schedules;
  - (b) the Party has the right to be accompanied to an interview (including by counsel at his own cost);
  - (c) interviews will be recorded and recorded interviews shall be used for transcription and evidentiary purposes and thereafter will be retained by World Sailing for a minimum of 3 years in a secure place;
  - (d) the Party has the right to request an interpreter (the interpreter shall be arranged by the Participant and provided at his own cost); and
  - (e) a recording or a transcript of an interview shall be provided to the Party upon request within a reasonable time following its conclusion (at the Party's own cost).
- 36.7 All Parties and World Sailing must take all reasonable measures to assist an Ethics Officer in the collection of evidence. This includes attending interviews under Regulation 36.5. If an Ethics Officer requests the production of evidence from any person that person shall (subject to considerations of legal professional privilege or other legal entitlement) be under an obligation to provide it. Failure to comply with an Ethics Officer's request may be reported as Misconduct under Regulation 35.
- 36.8 Parties shall be determined to be immediately available at the most current postal or email address held by World Sailing or by a National Authority.
- 36.9 Any notice delivered to a Party shall be deemed to have been received by the Party on the date of delivery to such an address recorded in the confirmation of delivery provided by any courier or postal service. Any other method of secure and confidential communication may be used including email and fax but the burden of proving delivery in such circumstances shall rest with the person delivering the document.
- 36.10 Following the investigation, the Ethics Officer shall:
- (a) take no further action; or
  - (b) charge any Party with a breach of the Code, but only if:
    - (i) there is a realistic prospect that a finding of a breach of the Code would be made based on the information available; and
    - (ii) it is in the best interests of the sport to make the charge.
- The decision of the Ethics Officer under this Regulation 36.10 is final and is not subject to any review or appeal.
- 36.11 The decision of the Ethics Officer shall be communicated to the Party and the complainant at the first reasonable opportunity. A copy of the decision shall be sent to the Chairman of the Ethics Commission.

***Procedures relating to Charging***

- 36.12 If a charge is issued against a Party, as soon as practicable a written notice of the charge shall be provided to the Participant and to the Ethics Commission, which shall:
- (a) state briefly the nature of the alleged breach;
  - (b) identify the provision(s) of the Code alleged to have been breached; and
  - (c) provide copies of documents or other material referred to in the charge.
- 36.13 A single charge may be issued against a Party in respect of more than one breach, but the charge shall state separately the nature of each alleged breach and the provision(s) alleged to have been breached and shall have effect as separate charges.
- 36.14 Where the subject matter of or facts relating to a charge or charges against one or more Party(s) are sufficiently linked (including, but not limited to, where a breach is alleged to have been committed at the same time or place or where there is common evidence), the Ethics Officer may consolidate the proceedings so that they are conducted together and determined at a joint hearing, subject to the Ethics Commission appointed deciding upon some alternative procedure.

#### ***Hearing and Determination of the Charge***

- 36.15 Charge(s) shall be considered by and adjudicated upon by the Ethics Commission. Rules of Procedure published by the Commission shall apply to the conduct, determination and hearing of the charge and, in particular, may authorise a panel of at least three members of the Commission appointed by the Chairman to hear and adjudicate charges on behalf of the Commission (in which case Regulation 8.5.2 does not apply to such panel). Any challenge to the constitution of a panel shall be made in accordance with the time limits and procedure set out in the Rules of Procedure and shall be decided by the Chairman. There shall be no appeal against the decision of the Chairman.
- 36.16 The Ethics Commission may impose penalties set out in the Code following a proven charge of a breach of the Code. The Commission shall publish its decisions unless there is a good reason not to do so.

#### ***Appeals against the decisions of the Commission***

- 36.17 The Ethics Officer or a Party hereby agree to respect and be bound by the decision of the Ethics Commission, subject only to the right of appeal set out below.
- 36.18 There is a right of appeal from a decision of Ethics Commission to the Judicial Board which shall be heard under Part G of Regulation 35 (except that the Judicial Board shall appoint an Independent Appeal Panel to hear and adjudicate on the appeal).
- 36.19 However, the right of appeal under Regulation 36.18 shall only be available on the grounds that the decision was: wrong on a point of law; in excess of jurisdiction; or where it is alleged that there was a procedurally unfair process or the decision was biased.