



MISCONDUCT INVESTIGATIONS AND HEARINGS

Competitors, boat owners or support persons have an obligation not to commit an act of misconduct. Misconduct is described in the Racing Rules of Sailing as:

1. Conduct that is a breach of good manners, a breach of good sportsmanship, or unethical behaviour, or
2. Conduct that may bring the sport into disrepute.

Misconduct is addressed in accordance with the Racing Rules of Sailing under rule 69 and World Sailing's Disciplinary, Appeals and Review Code.

This policy refers to the conduct of misconduct investigations, hearings, and the determination of penalties by Australian Sailing. The policy provides a fair process that can be executed efficiently by Australian Sailing for the benefit of those involved and sets out the procedures to be followed by Australian Sailing.

1. Racing Rules of Sailing 69.2(j) and (k) require protest committees to make reports to the national authority of a participant in certain circumstances.
2. The Disciplinary, Appeal and Review Code requires Australian Sailing to review reports and determine whether to conduct further investigation in relation to matters in the report. Australian Sailing must decide on any matter and whether a penalty is to be applied within 3 months.

3. Investigations by Australian Sailing

- 3.1. Reports will be reviewed by an investigating officer appointed by the Chief Executive Officer of Australian Sailing or their delegate.
- 3.2. Further investigation may include the assembly of readily available information, or telephone interview or written correspondence with persons involved.
- 3.3. In-person interviews may be recorded and may be used for transcription and evidentiary purposes.
- 3.4. The investigating officer shall prepare a report for Australian Sailing including a recommendation on whether to:
 - 3.4.1. Take no further action
 - 3.4.2. Issue a warning to any participant and thereafter take no further action
 - 3.4.3. Conduct a hearing to determine whether any further sanction within Australian Sailing's jurisdiction should be imposed.

4. Determination of a warning or hearing

- 4.1. On receipt of the report by the investigating officer, any decision to issue a warning or conduct a hearing shall be made by the CEO in consultation with an Australian Sailing Board member and a senior legal professional.

- 4.2. The senior legal professional should be a legally trained person with at least five years' experience in the legal profession, who has a good understanding of the sport and the Racing Rules of Sailing.
- 4.3. The consultation between the CEO, the Board member and legal professional may take place in person, by teleconference or electronically.
- 4.4. If it is determined a hearing is appropriate, Australian Sailing shall advise the participant in writing.
- 4.5. Should it be decided to take no further action or issue a warning Australian Sailing shall advise the complainant and participant.

5. Conduct of a hearing further to a protest committee penalty

- 5.1. If the hearing is further to a protest committee finding of misconduct it will generally be accepted that the misconduct, as found by the protest committee, occurred and the hearing shall only be to determine if any further penalty is appropriate and if so, what that will be.
- 5.2. Hearings are to be conducted by a Tribunal
 - 5.2.1. A Tribunal shall be composed of a minimum of three people including at least one World Sailing Race Official and one senior legal professional.
 - 5.2.2. The Tribunal membership will be determined by the CEO or their delegate.
 - 5.2.3. The Tribunal is authorised by Australian Sailing to determine whether a penalty will be applied and if so, what that penalty is.
 - 5.2.4. The Tribunal may conduct the hearing by video/teleconference.
 - 5.2.5. The Tribunal or participant may call witnesses. It is the responsibility of the competitor, boat owner or support person to arrange the attendance of any witness called by him or herself.
 - 5.2.6. The Tribunal may consider written submissions from witnesses or participant.
 - 5.2.7. The Tribunal may determine to impose disciplinary action, bearing in mind the seriousness of the misconduct.
 - 5.2.8. The Tribunal shall invite comment from the participant on the matter of disciplinary action before making its determination.
 - 5.2.9. The decision of the Tribunal will normally be provided within 3 months receiving the report.

6. Conduct of an investigation further to a report made directly to Australian Sailing under rule 69.2(k) where there has been no protest hearing.

- 6.1. Australian Sailing shall appoint an investigator and follow the procedures under clauses 3 and 4 above.
- 6.2. If it is determined that a hearing will take place, the procedures in clause 5 shall be followed.

7. Decision of a Tribunal Panel

- 7.1. The Tribunal Panel may take into consideration but shall not be limited by any recommendation from the protest committee.
- 7.2. Penalties may be imposed by the Tribunal Panel as set out in Part F of the Disciplinary, Appeals and Review Code.
- 7.3. Australian Sailing will report the decision to the participant and World Sailing in accordance with the Disciplinary, Appeals and Review Code. A summary of the decision will be provided to the complainant.

8. Appealing the decision

- 8.1. The decision of the Tribunal may be appealed by the participant in accordance with the Disciplinary, Appeals and Review Code.



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