

3 February 2022

Concept Note: Disciplinary and Ethics Processes

This summary note has been prepared to explain the current ethics and disciplinary processes within World Sailing. It sets out suggested new structures and the Board welcomes any other proposals at, or in advance of, the meeting.

This note will not deal with disciplinary processes at sailing events (which are governed by the RRS).

Current Position

Disciplinary matters are governed by Regulation 35 (the Disciplinary, Appeals and Review Code). The Code applies to World Sailing officers, Board members, Council members, committee and commission members, working party members, World Sailing Members (including any representatives sent by a Member to attend World Sailing Events, meetings or other official functions), World Sailing representatives, and any person, official or body subject to the World Sailing Constitution or World Sailing Regulations. This group are known as "Participants".

The disciplinary system is overseen by the Judicial Board. The Judicial Board is appointed by Council on the recommendation of the Board of Directors. The Judicial Board appoints panels to hear cases, appoints Disciplinary Investigating Officers (**DIOs**), and adjudicates on disputes about whether a complaint lies within the remit of World Sailing. The Judicial Board also has the power to transfer a misconduct matter from an MNA to World Sailing where it is more appropriate (for example cases which involve multiple countries).

Complaints concerning misconduct must be sent to the Chief Executive Officer who is required to send them to the Judicial Board. The Judicial Board appoints a DIO to investigate the complaint. The Code requires Participants to co-operate with a DIO in their investigation.

Following investigation, the DIO can decide to take no action, issue a warning, or charge a Participant with misconduct. If the DIO decides to take no action, the complainant has the right to ask a second DIO to reconsider the decision.

If charged, the Judicial Board appoints an Independent Panel to hear the case. The DIO 'prosecutes' the case and the Participant can be represented. The Independent Panel decides whether or not the Participant is guilty, and if so, what sanction to impose.

The following sanctions are available to an Independent Panel:

- no sanction;
- a warning, admonishment or reprimand;
- a fine not exceeding €1,000;

- a direction not to compete or officiate in a particular event or class (or types of event or classes);
- suspension or revocation of Competition Eligibility and/or World Sailing Eligibility (or the imposition of conditions on such Eligibility);
- suspension or removal from office in the case of World Sailing officers or World Sailing Representatives;
- suspension or removal of a certificate of appointment in the case of World Sailing Race Officials (or the imposition of conditions on such appointment);
- any sanction set out in the World Sailing Code of Ethics;
- make a report to a MNA, World Sailing Class, World Sailing (under another Regulation or the Racing Rule of Sailing) or any other appropriate organisation; and/or
- any other sanction which it is within the powers of World Sailing or the MNA to impose.

There is a right of appeal from the decision of an Independent Panel. Most appeals are heard by an Independent Appeal Panel appointed by the Judicial Board, but some limited cases concerning participation in major international events lie to the Court of Arbitration for Sport.

Ethics

Participants are governed by the Code of Ethics. The Code sets out various ethical principles and expectations.

Ethics complaints alleging a breach of the Code of Ethics follow a very similar process to the above, but with the Ethics Commission. The Ethics Commission will appoint an independent Ethics Officer who performs a similar role to the DIO above.

If the Ethics Officer issues a charge, then a panel of the Ethics Commission will hear and adjudicate on the case. The Ethics Commission can impose the same sanctions as listed above. There is a right of appeal from a decision of the Ethics Commission to an Independent Appeal Panel appointed by the Judicial Board.

Proposal

The key elements of the current proposals are summarised below:

- All the various conduct rules (i.e. both matters dealt with by the Judicial Board and by the Ethics Commission) would be consolidated into one Code of Ethics to set out the standards of conduct required of all World Sailing participants, officials and other representatives.
- A new independent Investigations Panel will be established to directly receive complaints (including from whistleblowers), facilitate any resolution by agreement (where appropriate), investigate whether or not there is a breach of the new Code of Ethics or any other rule and, if so, whether to charge and prosecute a person before the Disciplinary Tribunal. The right to issue a

warning would be removed as this does not allow the Participant to challenge the assumptions behind the warning before it is made public. The decision to charge is in the discretion of the Panel (i.e. the Panel would take a view on whether or not it was in the interests of the sport to proceed even if a potential breach was established).

- Establish a new independent Disciplinary Tribunal to replace the existing Judicial Board and Ethics Commission. It will hear, decide and impose sanctions for all breaches of the revised Code of Ethics, or breaches of any rule or regulation. The list of sanctions will remain the same except that it will have the power to recommend to the Board the removal of a director, including the President, for serious breach of duties.
- The independence of the Panel and the Tribunal means that no members of these bodies can be members of any World Sailing body at the same time nor within the two years prior to appointment.
- Existing whistleblowing mechanisms will be revised and enhanced to facilitate raising concerns or complaints about sailors, coaches, officials or others involved in World Sailing for referral to their MNA (for MNA officials and participants) or the World Sailing Investigations Panel (for World Sailing officials)
- The various rules and policy on conflicts of interest will be consolidated into one policy and programme of education for members of the Councils, Committees, Sub-Committees and Working Groups established on how to manage them. The new independent whistleblowing mechanism, Investigations Panel and, if required, the Disciplinary Tribunal provide an avenue for reporting and enforcing any alleged breaches of conflicts of interest. The Tribunal will have the power to order a decision null and void if it was decided that a person had a conflict of interest when they voted on it.
- The current Election Committee will change its name to be an Elections Panel (so it is not confused with the committees). Its role, powers, functions and composition will not change.