

World Sailing Ethics

Ethics Commission and Code of Ethics – Regulations 8.14., 35.3.7 & 36

An urgent submission from the Board on behalf of the Ethics Commission

Purpose or Objective

To remove duplication in the hearing and adjudication of ethics complaints and to empower the Ethics Commission to hear and determine complaints (with appeal onto the Judicial Board).

To insert an express quorum for commission meetings.

Proposal

1. Insert Regulation 8.5.2:

8.5.2 The quorum for meetings of a commission is one third of the number of members of that commission and, if a meeting takes place by electronic means, any decision shall be determined by the votes of the majority of members who respond within the timescale prescribed by the chairman (which shall be not less than seven days).

2. Amend Regulation 8.14.8 as follows:

8.14.8 The Commission shall:

- (a) promote ethical behaviour within World Sailing and the sport of sailing generally;
- (b) keep the World Sailing Code of Ethics under review and propose any amendments it may consider necessary;
- (c) carry out investigations **and adjudicate on** ~~into~~ complaints submitted under the World Sailing Code of Ethics ~~and make reports to the Board (or Council if a report concerns a member of the Board);~~
- (d) advise World Sailing and its members on the proper application of the Code of Ethics (including by issuing guidance); ~~and~~
- (e) provide confidential guidance on request concerning a question~~s~~ of ethics; **and**
- (f) appoint and remove Ethics Officers.**

3. Amend Regulation 35.3.7

35.3.7 If an Independent Panel is appointed to exercise any ~~disciplinary~~ 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.

4. Amend Regulation 36 as set out in Appendix 1.

5. If this submission is approved, Council authorizes the Ethics Commission to amend the Introduction to the Code of Ethics as appropriate to reflect the new procedures (but not to amend the substantive provisions of the Code itself).
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Current Position

As above

Reasons

1. The Ethics Commission has been reviewing the model for investigations, hearings and sanctions into Code of Ethics complaints. There is a broad consensus that the Ethics Commission should have overall responsibility for investigating and determining ethical breaches (including penalty) but with a right of appeal to an independent panel appointed by the Judicial Board.
 2. The procedure in brief would involve a complaint to the Chief Executive Officer, a referral to an ethics officer to investigate and to lay a charge of breach if appropriate and then present the evidence to a hearing before the Ethics Commission. The respondent to the complaint would be entitled to be present at the hearing and to present evidence in rebuttal.
 3. The Commission would then determine if the charge is proven and if so impose a penalty from a list which is currently set out in the Code of Ethics.
 4. This procedure would remove referral to World Sailing's Board and then a second investigation by World Sailing's Judicial Board before determination and the imposition of a penalty/sanction if appropriate.
 5. This new process has been prepared by the Commission following consultation with the Board, the Chairmen of the Constitution Committee and Judicial Board, and the IOC Chief Ethics and Compliance Officer.
 6. These changes are urgent in order that cases brought before the Commission are heard in a more expeditious manner.
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APPENDIX 1**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.

~~36.2 World Sailing Officers, members of the General Assembly, members of Council, members of World Sailing Committees, Commissions and working parties, World Sailing Race Officials and all other World Sailing Representatives (the "Parties") shall comply with the Code.~~

36.3 The Code shall be adopted by Council from time to time.

Complaints under the Code

36.4 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, who shall refer it to an Ethics **Officer** ~~Commission~~.

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 World Sailing committee or commission member, World Sailing employee, World Sailing officer or World Sailing Race Official or Judicial Board member.

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;**
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- (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) issue a warning to any Party in the report, and thereafter take no further action; or
- (c) charge any Party with a breach of the Code.

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.

36.12 In the event that the Ethics Officer has decided to take no further action, within seven days of receipt of the decision, the complainant may make a written request to the Chairman of the Ethics Commission that a second Ethics Officer be appointed independently to investigate the complaint. If such a request is made the Chairman may, within 14 days of the request, appoint a second Ethics Officer to investigate and make a decision in accordance with Regulation 36.10 This process may only be applied once in relation to any complaint.

Procedures relating to Charging

36.13 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
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(c) provide copies of documents or other material referred to in the charge.

36.14 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.

36.15 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

36.16 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.

36.17 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

36.18 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.

36.19 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).

Delete existing Regulations 36.5 to 36.11
