

# POLICY

KRA / NUMBER

# COM.17.2013

TITLE:	Conduct of Rule 69 Investigations and Hearings
KRA:	
RELATED POLICIES:	
RESPONSIBILITY:	Sport Services Manager
DATE CREATED:	23 September 2013
DATE LAST REVIEWED:	20 February 2014
NEXT REVISION DATE:	February 2016
DRAFTED BY:	Glen Stanaway
APPROVAL:	Yachting Australia Board
ATTACHMENTS:	

Competitors have an obligation not to commit gross misconduct, including a gross breach of a rule, good manners or sportsmanship.

This policy refers to the conduct of Rule 69 investigations, hearings and the determination of penalties by Yachting Australia. The policy provides a fair process that, importantly, can be executed efficiently by Yachting Australia for the benefit of those involved.

1. The Racing Rules of Sailing provide for National Authorities to receive reports alleging gross misconduct. When Yachting Australia is in receipt of such a report it shall investigate the matter, and may conduct a hearing and consider taking disciplinary action.
2. The Racing Rules of Sailing require protest committees and international juries to report penalties imposed for gross misconduct to the National Authority. When Yachting Australia is in receipt of such a report it shall conduct an investigation in accordance with its established procedures, and when appropriate conduct a hearing and consider taking disciplinary action within its jurisdiction. This document sets out procedures to be followed.
3. Investigations by Yachting Australia
  - 3.1. The investigation shall be conducted by the Yachting Australia Chief Executive Officer or his/her delegate.
  - 3.2. An investigation may include the assembly of readily available information, or telephone interview or written correspondence with persons involved.
  - 3.3. If the investigation includes telephone interview, notes shall be taken and provided to the interviewee for comment.
4. Determination of a hearing
  - 4.1. The decision to proceed to a hearing shall be made by the CEO in consultation with a Yachting Australia Board member and a senior legal professional.
  - 4.2. A 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 findings of the investigation shall be provided to the Board member and legal professional.
- 4.4. The consultation with the Board member and legal professional may take place in person or by teleconference and confirmation of their recommendation to the CEO circulated between them by email.
- 4.5. If it is determined a hearing is appropriate, Yachting Australia shall advise the competitor in writing.
5. Conduct of a hearing further to a protest committee penalty
  - 5.1. If the hearing is further to a protest committee finding of gross misconduct it shall generally be accepted that the gross misconduct as found by the protest committee occurred and the hearing shall only be to determine if any further disciplinary action is appropriate and if so what that will be.
  - 5.2. A teleconference may be convened to determine directions for the hearing.
  - 5.3. Hearings are to be conducted by a tribunal panel
    - 5.3.1. A tribunal shall be composed of a minimum of three people including at least one ISAF Race Official and one senior legal professional.
    - 5.3.2. The tribunal membership may be determined by the CEO from a Panel appointed by the Yachting Australia Board.
    - 5.3.3. The tribunal is authorised by Yachting Australia to determine the penalty.
    - 5.3.4. The tribunal may determine to conduct the hearing by teleconference.
    - 5.3.5. Either the tribunal or competitor may call witnesses. It is the responsibility of the competitor to arrange the attendance of any witness called by him or herself.
    - 5.3.6. The tribunal may consider written submissions from witnesses or the competitor.
    - 5.3.7. The tribunal may determine to impose disciplinary action, bearing in mind the seriousness of the misconduct.
    - 5.3.8. The tribunal shall invite comment from the competitor on the matter of disciplinary action before making its determination.
    - 5.3.9. The decision of the tribunal will normally be provided within 7 business days of the hearing.
    - 5.3.10. The decision of the tribunal may be appealed by the competitor or CEO.
6. Conduct of a hearing further to a report alleging a breach of Rule 69.1(a) or 69.2(f)
  - 6.1. For a hearing further to a report alleging gross misconduct, the hearing shall establish whether the alleged gross misconduct occurred and to determine whether any disciplinary action is appropriate and if so what that will be.
  - 6.2. A teleconference may be convened to determine directions for the hearing.
  - 6.3. If the competitor admits that gross misconduct occurred this cooperation shall be taken into account when determining any penalty.
  - 6.4. Hearings shall be conducted in accordance with the process outlined in 5.3.
  - 6.5. The tribunal shall determine to its comfortable satisfaction whether a competitor had committed gross misconduct. Note ISAF Case 122 regarding "comfortable satisfaction".
7. Appealing the decision
  - 7.1. The decision of the tribunal panel may be appealed by the competitor or CEO.
  - 7.2. Appeals shall be received by Yachting Australia within 14 days of the decision.
  - 7.3. Appeals shall clearly state the grounds of the appeal, which may include procedural error, the findings, or the severity of the disciplinary action.
  - 7.4. The appeal will be conducted in accordance with the procedures set out in 5.3.
  - 7.5. The decision of the appeal tribunal shall be provided within 14 days of the hearing.
  - 7.6. The decision of the tribunal conducting the appeal is final and cannot be appealed.
8. Disciplinary action by Yachting Australia

- 8.1. Yachting Australia may take into consideration but shall not be limited by any recommendation from the protest committee.
- 8.2. Disciplinary action may include but is not limited to:
  - 8.2.1. requirement to apologise
  - 8.2.2. a donation to a charity determined by the Tribunal which may include the Australian Sports Foundation.
  - 8.2.3. disqualify or apply a scoring penalty to the boat for the event in question.
  - 8.2.4. dis-accreditation if accredited by Yachting Australia as a Race Official, Instructor or Coach
  - 8.2.5. a suspension or revoking of eligibility to sail in Australia, or Competition Eligibility and ISAF Eligibility in accordance with ISAF Eligibility Code
- 8.3. Yachting Australia shall report to ISAF any suspension of eligibility, including Competition and ISAF Eligibility.
- 8.4. Yachting Australia shall also report any penalty to the State Associations.

