World Sailing Regulations

Investigations – Regulation 35.4

A submission from the Board

Purpose or Objective

To ensure a greater degree of oversight of disciplinary investigations at major international events and by World Sailing.

Proposal

Amend Regulation 35.4 as attached.

Current Position

See attached.

Reasons

1. The system of event disciplinary investigating officers is working well and ensuring that international juries of major international events are not involved in the investigation of misconduct before then being asked to decide on whether or not misconduct occurred.

2. As more experience and expertise of the investigation process is gathered, the Board considers that it is appropriate to follow the recommendation of the Governance Commission and establish a small group to oversee and advise investigators on their functions.

3. In particular, if a report is made to World Sailing, the Board considers it should not be the decision of just one person whether or not to proceed to a disciplinary hearing. A group with a range of experience should decide this.
Amendments to Regulation 35.4

35.4 Part C – Misconduct at Major International Events

35.4.1 The procedures in this Part apply only to the following events.

(a) Olympic and Paralympic Sailing Competition;

(b) World Sailing Events which have been designated by the Judicial Board as major international events;

(c) the America's Cup and its associated events; and

(d) the Volvo Ocean Race.

Investigation of allegations of Misconduct

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 being 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 is a member of the international jury of the event, then he 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 one up to two of its number are unable to hear a case due to appointment under this Regulation as the Event Disciplinary Investigating Officer, as provided for in RRS Appendix N. 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.

Investigation of allegations of Misconduct

[...]

35.4.8 When a report is received by World Sailing under Regulation 35.4.7, the Judicial Board shall appoint a new Disciplinary Investigating Officer (the World Sailing Disciplinary Investigating Officer) to review it. The World Sailing Disciplinary Investigating Officer shall not be the Event Disciplinary Investigating Officer and shall not have been a race official at the event.

35.4.8 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 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.

35.4.9 Following the review, the Investigations Panel World Sailing Disciplinary Investigating Officer shall in his 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 World Sailing Disciplinary Investigating Officer, may warrant disciplinary action wider than the event jurisdiction of the protest committee.

35.4.10 The decision of the Investigations Panel World Sailing Disciplinary Investigating Officer made under Regulation 35.4.9 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 35.4.9(a), the decision shall be anonymised.

[...]  

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 relevant 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.