

Dispute resolution

Processes available for racing incidents at Carsington Sailing Club

Background:

Following a recent “on the water” incident which was resolved by using the Arbitration process, the Sailing Committee felt that it would be worth highlighting to racing members alternatives to the Full Protest Hearing; these are already provided for in Section 14 of the Club’s SIs but the Sailing Committee feel it is worth drawing them to members’ attention.

In the majority of cases, the Sailing Committee believes these alternatives will provide a more appropriate means through which to address rule infringements at Carsington.

The RYA has three alternatives for dealing with incidents whilst racing on the water – the Advisory Hearing; Arbitration; and the Full Protest Hearing. What follows is a summary of these processes. Further information on the Advisory Hearing and arbitrations is on the RYA website at <http://www.rya.org.uk/racing/raceofficials/Pages/RulesDisputesProcess.aspx>, from where the detailed Rules Disputes Process may be downloaded in PDF format; there is also a list of FAQs and a simple A4 explanatory poster.

Advisory Hearing:

The Advisory Hearing is the simplest way through which to resolve disputes; it exists primarily to educate those involved in racing incidents, especially where one or more of the parties involved may not be sure who was in the right or wrong.

An Advisory Hearing should be used if you simply want to establish who was in the right. It is relatively informal and no protest form is required.

The process is as follows:

1. A competitor asks the Race Officer for an Advisory Hearing¹: this must be done orally within 60 minutes of the time of the last boat to finish in the Race (or from the time of the last boat to finish in the last Race if races are sailed back to back). Other competitor(s) involved in the incident must also be told that an Advisory Hearing has been requested.
2. The Race Officer notes that the request has been made and asks an “Adviser” (someone at the Club who was not involved in the incident but who is knowledgeable about the Racing Rules of Sailing²) to run the Hearing. The Adviser checks that all competitors concerned are willing to attend the Hearing and that no one involved intends to lodge a protest or to ask for redress.
3. Notices are posted on the Club Notice Board specifying the time and place of the Hearing – this will usually be on the same day as the incident occurs, after all racing has finished for the day.
4. The Hearing is convened³. At the Hearing each competitor takes a few minutes to say what happened. The Adviser may ask the views of others not immediately involved in the incident for their view of it.
5. If the facts are clear, the Adviser uses the rule book to explain the rules that apply, and whether a rule was broken. If a rule was broken, and the boat “in the wrong” accepts this, she should consider accepting an Exoneration Penalty (i.e. finishing position plus 20% of Race Entry), or retiring (there is no obligation on the “guilty party” to do either).

¹ The Race Officer can also initiate an Advisory Hearing or Arbitration.

² Experienced racers at the Club are encouraged to respond positively to requests that they run an Advisory Hearing or act as an Arbitrator.

³ Members of the Club are encouraged to attend advisory hearings and arbitrations as a means of developing their own knowledge of the Racing Rules of Sailing and/or the alternative dispute resolution processes.

Arbitration

Arbitration offers exoneration penalties rather than disqualification; it is a simpler procedure than a full Protest Hearing, not as formal, and the potential penalty is less severe.

You should use Arbitration if you want the dispute resolved quickly and simply.

The process is as follows:

1. Requests for Arbitration must be made in writing and delivered to the Club Office within 60 minutes of the time of the last boat to finish in the Race (or from the time of the last boat to finish in the last Race if races are sailed back to back).
2. An Arbitrator (someone at the Club who was not involved in the incident but who is knowledgeable about the Racing Rules of Sailing) must first establish that there was no injury or serious damage⁴: if the Arbitrator is satisfied on this point and if all parties agree the Arbitration process can then be applied.
3. Notices are posted on the Club Notice Board specifying the time and place of the arbitration – this will usually be on the same day as the incident occurs after all racing has finished for the day.
4. The Arbitration is convened and the parties describe the incident. The Arbitrator decides whether any other witnesses to the incident should be asked to comment. The Arbitrator may decide at any time during the hearing that the issue would in fact better be heard by a full protest committee, and may suspend the arbitration
5. Having considered the facts as presented, the Arbitrator explains what rules may have been broken and whether anyone was in the wrong.
6. No one is disqualified from the race but the boat judged to be in the wrong is asked to accept the exoneration penalty (i.e. finishing position plus 20% of Race Entry) or to retire from the Race; if this is done then the protestor is asked to withdraw their protest and that is the end of the matter
7. However, there is no obligation to accept an Exoneration Penalty, retirement or a decision that no rule was broken; the party not accepting the outcome of the Arbitration is entitled to have the matter heard as a normal protest.
8. If the exoneration penalty is not accepted, the protest may go to a formal protest hearing.

The main aim of the RYA's alternative dispute resolution processes is to encourage everyone to follow The Racing Rules of Sailing; the Sailing Committee's view is that this is most likely to be achieved through Advisory Hearings and use of the Arbitration process and members are encouraged to use these processes rather than a full Protest Hearing whenever possible.

Full Protest Hearing

For completeness, a **full Protest Hearing should be used if the dispute is complex or if there has been injury or serious damage or if you feel an exoneration penalty would be inappropriate.**

The processes and timescales for lodging a protest are the same as for an Arbitration.

A traditional formal hearing of the parties before a Protest Committee (usually of 3 people) will be arranged – usually this will not sit on the same day that the incident occurs. Any boat found to have that has broken a rule will be disqualified.

David Lucas
On behalf of the Sailing Committee

⁴ If there is then the dispute must go to a Full Protest Hearing.