



RYA GUIDANCE

RULES DISPUTES

INTRODUCTION

If an incident on the water in fleet racing is not resolved by a boat taking a penalty (one turn for touching a mark, two turns for breaking a rule of Part 2 of the Racing Rules of Sailing, retiring in other cases), then the normal outcomes are:

A protest hearing which may result in a disqualification: this appears to be becoming less common

A boat retires after finishing: this can happen

Nothing happens, because there is no protest, and no retirement: this is becoming too frequent

The RYA understands a reluctance to take matters to protest hearings, but no one in the sport should condone disregard of the rules. The RYA therefore wishes to recommend that clubs should consider adopting:

(a) An Exoneration Penalty which is less severe than disqualification, and is available after racing for many infringements; and

(b) An Advisory Hearing and RYA Arbitration, two new quicker ways of resolving disputes.

The Sailing Committee has decided to implement both of the above with effect from 1st January 2013

EXONERATION PENALTY

A 20% scoring penalty as stated in rule 44.3(c) (except that the minimum penalty is two places), may be accepted after finishing and before the start of any protest hearing

When it is accepted, a protest committee cannot penalise that boat further over the same incident

Once accepted, it cannot be withdrawn even if a protest committee later decides no rule was broken

It is available for breaches of the rules of Part 2 (rules 10-23) and of rule 31, if a penalty could have been taken for the infringement at the time of the incident: and for breaking rule 42.

A boat may accept an exoneration penalty without a hearing of any sort if it so wishes. The signing on sheet should clearly be marked XPA, and ideally the race officer will also be advised.

Alternatively the Advisory Hearing and RYA Arbitration processes may be used, the processes being described below.

AN ADVISORY HEARING

Its purpose is to discuss incidents with an adviser and resolve them promptly in an informal but positive way, so that competitors understand the rules better. It is available only where there is no injury, serious damage, related protest or RYA Arbitration.

When an Advisory Hearing is requested, and if all parties agree to this procedure, an adviser* will quickly hear what the parties have to say, decide whether the issues are clear enough without further evidence, and, if so say whether any boat broke a rule, and, if so, which and why.

Redress is not available, but a race committee may agree to correct a mistake if it comes to light.

*The Sailing committee will be publishing a list of “advisers” shortly. Meantime please ask any member of the sailing committee to assist, either directly or by suggesting suitable “adviser”.

RYA ARBITRATION

Its purpose is to decide protests and requests for redress more simply and quickly; it is not suitable for incidents that resulted in damage or injury.

When a protest form is lodged, a boat may request RYA Arbitration, or the protest committee may suggest it. If the boats and a member of the protest committee or race committee agree that RYA Arbitration is suitable one or more arbitrators (who may also be members of the protest committee) hear the evidence of the parties and decide whether any boat broke a rule, and, if so, which and why. The arbitrator will then either invite a boat that appears to have broken a rule to accept an Exoneration Penalty or will decide that no boat broke a rule. When the decision is accepted by all parties, this will normally conclude the matter – a boat that takes a penalty shall not be penalised further with respect to the same incident unless she caused injury or serious damage or gained a significant advantage. When the decision is not accepted by any party, a protest hearing will follow. The arbitrator may also decide that in fact the matter should be heard as a full protest, but a boat may still accept an Exoneration Penalty before the hearing thus avoiding the possibility of disqualification.

When redress is offered and accepted, the protest committee or race committee may ask for a full hearing. When it is offered and not accepted, or not offered at all, the boat may proceed with her request at a full hearing before a protest committee.

SUMMARY – ADVISORY HEARINGS, RYA ARBITRATION AND PROTEST HEARINGS	ADVISORY HEARING (Informal)	RYA ARBITRATION (More formal)	PROTEST HEARING (Formal)
Initiation	Oral request	Protest form	Protest form
Validity of Protest notification	Not required	Required	Required
Time Limit for a boat to ask for a hearing	None	Normal protest time limit, arbitration request may be made on the protest form related to the incident	Normal protest time limit
If one boat does not agree to participate -	- the hearing will not take place	- the arbitration will not take place, and it will be heard as a normal protest	- the protest committee will normally proceed if one party decides not to attend
Penalty	A boat may voluntarily accept an Exoneration Penalty if it is available for the rule broken, but she is not required to do so.	Arbitrator may invite (but not require) a boat to accept an Exoneration Penalty if it is available for the infringement, or, if it is not, to retire (RAF)	Normal disqualification or other applicable penalty
If there was injury, serious damage or a boat gained a significant advantage	Exoneration Penalty not available, the boat should retire	Exoneration Penalty not available, the boat should retire	Disqualification for not retiring
Redress	Cannot be awarded, but a Race Committee may correct an error that is identified	Full range of redress options where the issue is not complicated	Full range of redress options
Further options	None	Any party may seek to have the decision reviewed by calling for a full hearing of the protest or request by a protest committee. ¹	The decision may be appealed
Paperwork	None	Completed protest form	Completed protest form

1 However, when an exoneration penalty is accepted,

(a) Neither the boat nor a protest committee may then revoke or remove the penalty.

(b) The boat shall not be penalised further in a protest hearing when the protest committee decides that it was appropriate to the facts found and the applicable rules.

A more detailed description of the process is available on the club website.

ADVISORY HEARING PROCEDURE

- 1. Competitor asks the race office for an Advisory Hearing, and tells the other competitor(s).**
- 2. The race office logs the request, and tells the adviser, who checks that all competitors concerned are willing to attend and do not intend to lodge a protest or ask for redress. A hearing is convened.**
- 3. Each competitor takes a few minutes to say what happened. Normally, only the adviser may call witnesses.**
- 4. The adviser asks questions and announces the outcome. 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 a boat accepts this, she should consider accepting an Exoneration Penalty if it is available for the rule considered broken, or otherwise consider retiring. She is not obliged to do this.**
- 5. If the facts are not clear, the adviser will try to advise how the rules would apply to possible variations of the facts.**
- 6. This procedure can be used instead of a request for redress to seek correction of a boat's score, in which case a race committee representative will attend. The race committee is not obliged to accept the decision of the adviser.**

RYA ARBITRATION PROCEDURE

- 1. A boat will lodge a protest form in the normal way, and within the normal time limit**
- 2. When RYA Arbitration is provided for in the notice of race and sailing instructions, its use may be initiated by any party (the protest form may provide for a protestor to ask for this) or by a member of the protest committee or race committee. The protest committee appoints an arbitrator, who will first establish that there was no injury or serious damage. If the arbitrator is satisfied, and if all parties agree, an arbitration hearing will be called, to take place as soon as possible in a quiet place, but with observers permitted to attend.**
- 3. If the arbitrator judges the issue too complex, or if a party does not agree to arbitration, the issue will be heard as a normal protest. Any boat may accept an Exoneration Penalty before the start of a full protest hearing (or retire if she caused injury, serious damage or gained a significant advantage – rule 44.1).**
- 4. If a party is not present, and therefore is not able to accept an Exoneration Penalty, it is recommended that the matter is heard by a protest committee. If RYA Arbitration was suitable, it may be equally suitable for the arbitrator to act as a one-person protest committee.**
- 5. The arbitrator follows the same procedure as for a protest hearing (see Appendix M), starting with establishing whether the protest was valid. If it is, the parties then briefly state their case. They may question each other, and the arbitrator will question them.**
- 6. 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. Any boat may accept an Exoneration Penalty before the start of a full protest hearing (or retire if she caused injury, serious damage or gained a significant advantage). However, the arbitrator may instead decide that hearing other witness evidence immediately will enable an immediate and clear decision to be made. Only the arbitrator may call witnesses.**

- 7. The arbitrator establishes and summarises the facts, and states the rules that apply and the conclusions. A boat adjudged to have broken a rule is asked to accept an Exoneration Penalty (or retire if she caused injury, serious damage or gained a significant advantage).**
- 8. When a party accepts an Exoneration Penalty or decides to retire, the protestor is invited and allowed to withdraw the protest.**
- 9. No party is obliged to accept an Exoneration Penalty or retire, and no party is obliged to accept that another party did not break a rule. In either case, the party is entitled to have the matter heard as a normal protest. If a boat does not agree to accept a penalty or retire, or does not agree that no rule was broken, any party has the option of requesting a full hearing.**
- 10. The arbitrator completes the protest form and returns it to the race office. If a full protest hearing is to follow, no new protest form from the party is needed, and the protest committee will attach a fresh second page to the protest form for its own hearing.**
- 11. If, for any reason, the issue is not or cannot be resolved to the parties' satisfaction by RYA Arbitration and it then proceeds to a protest hearing, any party may accept an Exoneration Penalty at any time before the protest hearing starts. An Exoneration Penalty, once accepted, cannot be withdrawn or removed, even if a protest committee later decides that a boat that accepted an Exoneration Penalty did not in fact break a rule.**
- 12. When a boat accepts an Exoneration Penalty at the arbitration or at any time before the start of a protest hearing, she will not be penalized further at the protest hearing if the protest committee decides that the penalty she has already accepted was appropriate to the facts it finds.**
- 13. When redress is offered and accepted at the RYA Arbitration, the protest committee or race committee may ask for a full hearing. When redress is offered and not accepted, or not offered at all, the boat may have her request heard before a protest committee.**
- 14. When RYA Arbitration proceeds to a full protest hearing, there is no objection in principle to the arbitrator being a member of the protest committee, but a protest committee may decide not to have the arbitrator as a member.**

NOTE TO SCORERS

When an Exoneration Penalty is accepted by a boat, the designation XPA (Exoneration Penalty Accepted) is recommended. If she retires, she is to be scored RAF.