



RYA Racing Programme Disciplinary Policy Updated June 2022

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1. Introduction

This Disciplinary policy is designed to deal with disciplinary situations involving Participants in RYA Racing Programmes.

This policy applies to:

- a) **Members of the British Sailing Team and British Sailing Squad**
 - b) **Members of British Youth Sailing, parents and supporters**
 - c) **Members of other programmes administered by the RYA Racing Department**
- (Together, “Participants”)**

This policy shall operate alongside any contractual arrangement with the individual, (e.g funding agreement or participation agreement)

This policy does not apply to:

- a) **RYA staff.** A disciplinary issue involving an RYA staff member shall be dealt with under the RYA staff disciplinary policy and procedure, available in the RYA staff handbook.
- b) **Contractors to the RYA.** A disciplinary issue involving an independent contractor to the RYA shall be dealt with under their contractor’s agreement, and by reference, the RYA staff disciplinary policy and procedure, available in the staff handbook.
- c) **RYA qualified coaches.** A disciplinary issue involving an RYA qualified coach shall be dealt with in accordance with the RYA Race Coaching Performance Procedures.
- d) **RYA qualified race officials.** A disciplinary issue involving an RYA qualified race official shall be dealt with in accordance with the RYA Race Officials Performance Procedures.
- e) Misconduct while bound by the **Racing Rules of Sailing.** Disciplinary issues involving competitors or support persons (as defined in the Racing Rules) during a racing event shall be dealt with in accordance with the Racing Rules, notwithstanding that a breach or repeated breaches of the Racing Rules may result in action being taken against a Participant under this Disciplinary policy
- f) Misconduct handled in accordance with **World Sailing regulation 35.**
- g) Breaches of **Anti-Doping** rules, notwithstanding that a breach of Anti-Doping rules may also result in action being taken under this Disciplinary policy.

The RYA recommends that wherever possible, minor disciplinary issues should be resolved informally. Coaches and Programme Managers, where appropriate, should talk about the improvement in conduct or performance that is required of a Participant. In some cases, additional training, coaching and advice may be what is needed to resolve the issue.

There will be situations where matters are more serious or where an informal approach has been taken and not achieved the required results. In these cases, if informal action does not bring about an improvement, or the misconduct is considered too serious to be classed as minor, then formal actions may be considered.

If the issue relates to:

- **A Participant who is under 18 or an adult at risk¹, the designated safeguarding lead must be informed at the start.**
- **Bullying involving a youth sailor - refer to the RYA British Youth Sailing Anti-Bullying Policy.**
- **Matters that might be criminal - legal / safeguarding advice must be taken and the matter referred to the statutory authorities before proceeding further.**

Participants under the age of 18 or classified as an adult at risk are entitled to be supported by their parents or legal guardians while part of any process provided for in this Disciplinary policy.

The wellbeing of the Participant during this process is paramount and they are entitled to be supported by an appropriate member of staff, such as a coach or performance lifestyle adviser, especially during any period of suspension.

2. Purpose and Scope

The purpose of this policy is to ensure consistent and fair treatment of disciplinary situations and to encourage Participants to maintain appropriate standards of conduct.

This policy does not confer contractual rights on individuals and will be reviewed in line with any legislative changes. The policy may be changed or amended at the RYA's discretion.

The RYA may at its discretion appoint external parties to conduct investigations and disciplinary hearings. This may be as a result of: conflicts of interest; availability of resources; complexity; or specialist knowledge of the issues. The RYA's discretion is not limited by these examples.

3. Standards

The RYA has clear standards of conduct, which are reflected in the

- British Sailing Team and British Youth Sailing's Values & Behaviours,
- British Sailing Team Athlete Agreement
- RYA Programme Participation Agreements
- Codes of Conduct.
- Expected standards as explained to Participants when they join an RYA Racing programme, and that are reinforced through regular updates.

A breach of the expected standards may result in disciplinary action being taken. The RYA is not bound to take action.

¹ An adult who: has needs for care and support; and is experiencing, or is at risk of, abuse or neglect; and as a result of those care and support needs is unable to protect themselves from either the risk of, or the experience of, abuse or neglect.

4. Overriding Principles

The principles governing this policy and its application are:

- Consistency: this policy is applied consistently to all.
- Respect: Participant's rights and responsibilities will be respected.
- Openness and transparency.
- Fairness: In order to ensure that matters are dealt with fairly
- Timely: Issues shall be addressed promptly. Stages of the process will not be unreasonably delayed, and decisions shall be communicated promptly.
- Facts shall be established before decisions are taken. Establishing facts may require independent investigations to be undertaken.
- Natural justice shall be adhered to. Participants shall be informed of the nature of the problem and given an opportunity to put their case in response before any decisions are made.
- Participants may be accompanied at any disciplinary meeting.
- Proportionality: Sanctions shall be proportionate. Minor breaches of policy or instances of misconduct will initially be addressed informally. More serious or repeat matters will be handled formally, and in accordance with the procedures set out in this policy.
- Other than in the case of Gross Misconduct, de-selection shall be seen as a last resort.
- Participants have the right to appeal decisions taken. The appeal process may vary depending on the Participants programme.

5. Gross Misconduct

The following are examples of Gross Misconduct which may result in immediate suspension from the World Class performance programme, or any other RYA Racing Programme:

- Theft
- Fraud
- Serious breach of data protection legislation
- Deliberate falsification of records or expenses claims.
- Fighting or assault on another person
- Deliberate damage to the RYA's or third party's property
- Serious incapability through alcohol or being under the influence of illegal drugs whilst on RYA premises or on RYA business.
- Serious negligence which causes or might cause unacceptable loss, damage or injury
- A serious act of insubordination
- Using the RYA's computer systems to send, receive or access material of an indecent or offensive nature.
- Serious breaches of, or disregard of health and safety regulations.
- Engaging in any type of harassment, bullying or victimisation.
- Divulging to outside parties confidential information regarding the affairs of the RYA (or BST) (subject to the public interest (Disclosure) Act 1998.
- Misuse of the RYA's property or name.
- Bringing the RYA into disrepute.

6. Informal Resolution

Where conduct and behaviour fall short of the standards expected by the RYA, the coach or relevant Programme Manager should conduct an interview with the Participant, find out if there

are any problems, reiterate the required standards / improvements with timescales (usually immediate and sustained) and provide any help and support that may be needed. This will take the form of informal counselling, guidance and instruction and is NOT part of the formal procedure.

Coaches and Programme Managers should take notes of any such discussions. These will be retained for 12 months.

Other than in the case of Gross Misconduct, informal resolution should be attempted before a formal Disciplinary Process is commenced.

7. Disciplinary Process

7.1 Notification

Participants shall be informed in writing of the nature of the accusation against them and informed of the process that is to be followed.

If the Participant is a member of the British Sailing Team, UK Sport shall be informed of an intention to commence a disciplinary process.

If the Participant is subject to an accusation of Gross Misconduct, and the nature of the accusation renders it appropriate to do so, the Participant may be suspended from participation in any programme.

Suspension is a precautionary act to permit an unhindered investigation, or to safeguard others. Such a suspension shall not be regarded as a form of disciplinary action and should be for as short a period as reasonable possible.

Any decision to suspend shall be confirmed in writing within five working days.

In the case of suspension of British Sailing Team members, UK Sport's Integrity Team shall be notified and may consider, in accordance with the UK Sport Eligibility Policy, if a period of funding ineligibility should be imposed in line with any suspension period.

7.2 Establishing the facts of each case

The Programme Manager will appoint a suitable individual or team to carry out an investigation without unreasonable delay to establish a fair and balanced view of the allegations against the Participant, before deciding whether to proceed with a disciplinary hearing.

The investigation and disciplinary hearings **MUST** be carried out by different people, and it should not be carried out by an individual who is line-managed by the person conducting the disciplinary hearing.

For circumstances involving members of the British Sailing Team, it is mandatory for the RYA to consider referring the matter to the Sport Integrity Service under the Rules of Procedure of that service. This may involve the commission of an independent investigation ~~or disciplinary procedure~~ into alleged grievances, or allegations of misconduct involving: i) athletes; ii) athlete support personnel; or iii) RYA office holders, who are either members of the RYA World Class Programme; or funded through the UK Sport grant the following circumstances:

(i) where an individual is deemed a 'Relevant Person' under the terms of the Independent Disclosure and Complaints Service Pilot Regulations; and

(ii) they are a respondent to allegations of misconduct as defined as a 'Relevant Matter' under the same regulations.

In such circumstances they are required to cooperate with any investigation conducted by Sport Integrity, where the investigation is covered by terms of reference agreed by the RYA

Alternatively, Sport Integrity may have investigated a grievance raised by a Relevant Person, as defined in the Sport Integrity Rules of Procedure and may have produced a report as a result of such investigation. The RYA shall consider the contents of such report and take such steps under this Disciplinary Policy as may be necessary, as if it had conducted its own investigation under this Disciplinary Policy.

Where the investigation reveals allegations of criminal conduct, the investigation will be handed over to the police and will be paused until the conclusion of any resulting criminal proceedings.

7.3 Informing the Participant of the problem

If, at the end of the investigation, it is decided there is a disciplinary case to answer², the Participant should be notified of this in writing. All the information about the alleged misconduct and its possible consequences should be provided to the Participant, to allow them to answer the case at a disciplinary hearing: this includes providing them with copies of any written evidence, such as witness statements. The Participant must be informed of the possible outcomes of the hearing.

The Participant must be given the details of the time and venue for the hearing and be advised of the right to be accompanied by a companion should they choose to do so. A companion may be another Participant, a parent, a coach, or another member of support staff, or in the case of a member of the British Sailing Team, a member of the British Athletes Commission. Any Participant under the age of 18 or classified as a vulnerable adult/person at risk are entitled to be accompanied by a parent or legal guardian. The RYA will seek to ensure that the time, place and location of any disciplinary hearing are reasonable: it will take place as soon as is reasonably practicable.

7.4 Holding a Disciplinary Hearing

The Programme Manager, and one other person unconnected with the programme concerned, should hold the hearing without unreasonable delay whilst allowing the Participant reasonable time to prepare their case no less than 7 days from when the letter is sent. The Participant and their companion and/or parent or legal guardian must take all reasonable steps to attend. Where the Participant fails to attend a disciplinary hearing without good cause, the RYA may make a decision in the Participant's absence on the basis of the evidence available.

At the hearing, the Programme Manager will explain the role of all those attending and the allegation(s) against the Participant and will then go through the evidence that has been gathered. The Participant will be allowed to set out their case and answer any allegations that have been made. The Participant will also be given a reasonable opportunity to:

- ask questions;
- present evidence;
- call relevant witnesses; and
- raise points about any information provided by witnesses.

² There is more evidence to support an allegation than there is to rebut it.

The main points of the discussion will be summarised, and the Participant will be asked if they have anything further to say.

A companion will have the right to address the hearing and present the Participants case but is not permitted to answer questions on the Participant's behalf.

7.5 Decide on the appropriate action

Those conducting the disciplinary hearing must decide whether disciplinary action (or any other action) is justified and proportionate and inform the Participant accordingly in writing giving the reasons for the imposition of any sanction, including any mitigating and/or aggravating factors. Save for cases in which the Participant persistently fails to attend a disciplinary hearing without good cause, no disciplinary action should be imposed without a hearing.

Where misconduct is confirmed, the possible outcomes include:

- **Written Warning.** For a first instance which is not Gross Misconduct, then a Written Warning is appropriate. Such written warning may impose conditions for the individual, for example to attend a relevant educational course.
- **Final Written Warning.** Where the Participant is already subject to a Written Warning, and the misconduct is not Gross Misconduct, then a Final Written Warning is appropriate.
- **Withdrawal of RYA funding.** If the Participant receives funding from the RYA and a written warning has not addressed the issue or the issue is sufficiently serious, any element of funding may be withdrawn either temporarily or permanently.
- **Suspension³ from competitions/representative events.** The Participant may be suspended from selection for specific competitions/representative events: this is not a suspension from the RYA Programme.
- **Suspension from the RYA Programme.** The Participant may be suspended from the RYA Programme or from any element of the RYA Programme for a defined period. Suspension from the British Sailing Team may also result in a suspension of any benefits associated with being a member of the British Sailing Team, of funding received from the RYA or, if determined by UK Sport under the UK Sport Eligibility Policy, suspension of funding received from UK Sport,
- **De-selection from the performance programme.** Where the misconduct is Gross Misconduct, or the participant is already on their Final Written Warning, then it may be appropriate to de-select the Participant from the programme. This sanction must not be taken without consultation with the CEO.
- **Referral to the RYA Tribunal.** The RYA Tribunal may exercise all the powers of the RYA under RRS 69.3, World Sailing Regulations 19 & 35, exercise the RYA's jurisdiction to amend, suspend or withdraw RYA qualifications (other than those that fall within the remit of the Yachtmaster Qualification Panel); and exercise the RYA's jurisdiction to terminate membership of or affiliation to the RYA under Article 16.2(d) of the Articles of Association, pursuant to the delegated authority given to it by the Board under Article 7.1 of the Articles of Association.

³ Note this is different from paragraph 7 Suspension for investigation.

A Written Warning or Final Written Warning should set out:

- the nature of the misconduct and the change in behaviour required (with timescale);
- any particular steps to be taken, for example to attend a relevant educational course;
- how long the warning will remain current; and
- the consequences of further misconduct within the set period

A record of the action taken will be kept on the Participant's personal file for:

- 6 months (Written Warning).
- 12 months (Final Written Warning)
- 12 months (All other penalties).

In the event of disciplinary action being invoked against a parent or guardian, any sanctions will normally be applied in such a way as to not disadvantage the child. Inconvenience or the incurring of additional cost is not regarded as a disadvantage.

Where serious breaches of conduct recur, or unacceptable behaviour by a parent or guardian persists, or no practical or financially viable solution exists to allow the sailor to participate without the involvement of the parent or guardian continuing, then in exceptional cases, and after following this procedure, the participant's involvement in RYA programmes may be terminated.

In the event that Disciplinary Action as set out in paragraph 7.5 is taken against a member of the British Sailing Team, **UK Sport shall be notified**. UK Sport may decide to consider the matter against the UK Sport Eligibility Policy which may result in the individuals funding from UK Sport being withdrawn.

7.6 Provide the opportunity to request a review or appeal

- Where the Participant believes that the disciplinary action taken against them is wrong or unjust, the correct process was not followed; or
- the decision maker was biased; or
- the decision was made without considering all the relevant facts; or the decision was not one a reasonable person could have made they may request a review of the decision.

Reviews should be heard without unreasonable delay. The Participant should let the Director of Racing know the grounds (reasons) for the review request in writing within 10 working days of receiving written confirmation of the disciplinary warning or de-selection. The review will be heard by someone who has had no previous involvement with the disciplinary decision and who is independent of the RYA Racing Department. At the review hearing any disciplinary sanction imposed cannot be increased. The adverse effect of the disciplinary sanction upon the performance of a team or the squad in a competition will not be permitted as reason to review the disciplinary sanction.

British Sailing Team Appeals

If the Participant is a member of the British Sailing Team, they should let the RYA CEO know of their intention to appeal within 10 working days of receiving written confirmation of the disciplinary warning or de selection. A copy should be sent to the Head of Sport integrity at UK Sport. If a member of the British Sailing Team decides to appeal against

- **A written warning**, the appeal should be heard by a member of the RYA Senior Management team who has not previously been involved in the case.

- **Deselection**, the matter will be referred to an independent panel facilitated by Sports Resolutions UK.

Any appeals will be heard without unreasonable delay. UK Sport will be kept up to date on the progress and outcome of any appeal by a British Sailing Team member.

Participants have the right to be accompanied by: another Participant; a member of the coaching staff; in the case of those under the age of 18 or classified as a vulnerable adult/ person at risk, a parent or legal guardian; or in the case of British Sailing Team members, a representative from the BAC. The outcome of the appeal will be communicated as soon as possible following the appeal hearing and is the final stage in the Disciplinary Procedure.

8. Additional Information

8.1 Criminal Offences

Where allegations are made that may be of a criminal nature the RYA will refer the matter to the relevant authority to investigate. Where these issues are related to the potential conduct of a Participant whilst overseas, Participants should note that the legal jurisdiction of England and Wales does not cover overseas training events and competitions and will, therefore, be subject to the legislation and legal proceedings of the country in which the alleged offence occurred.

In the event that a Participant is charged with or convicted of a criminal offence either in the UK or abroad the RYA may decide to commence action under its disciplinary policy.

In the event that a Participant who is a British Sailing Team member, is charged with, or convicted of a criminal offence, UK Sport⁴ will give consideration to what effect this has on the Participant's eligibility to receive public funding or publicly funded benefits, in accordance with the UK Sport Eligibility Policy.

If the Participant who is not a British Sailing Team member, is charged with, or convicted of a criminal offence the RYA will give consideration to what effect this has on the Participant's continued involvement in any Programme, holding of any qualification, or membership of the RYA in accordance with any policies or regulations of the RYA in force at the time.

8.2 Confidentiality

Participants should only discuss disciplinary matters with coaches and Programme Mangers involved in the process and their companion. Breaching confidentiality may result in further disciplinary action being taken.

The outcome of a disciplinary hearing will remain confidential to the parties involved. Disclosure may be made in accordance with RYA's legal, contractual, or regulatory obligations. Where the Participant is part of a UK Sport funded programme, the RYA is required⁵ to inform the Head of Sport Integrity at UK Sport of the outcome of the hearing.

8.3 Time limits

⁴ Eligibility Panel

⁵ s19.3 of the Grant Funding Agreement.

Under normal circumstances the disciplinary process should be concluded in no more than 2 months. However, it is recognised that more complex cases could take up to 6 months. When any discipline process takes more than 20 working days, the Programme Manager conducting the process shall provide a written update to all parties at the 20 working day point, and every 20 working days thereafter until the process is concluded. Where the Participant is part of a UK Sport funded programme, Head of Sport Integrity at UK Sport shall also be included on the distribution.

8.4 Note taking and records

Should an investigation lead to a criminal investigation all material obtained in the course of an investigation should be considered relevant and may be made available to the police and, where applicable, to the Participant.

The RYA will not make an audio recording of any investigations or meetings. Participants and their companions are not permitted to record disciplinary interviews, meetings or hearings without prior consent. Recording a meeting without consent may be regarded as misconduct.

The RYA requires 'meeting notes' to be taken at all meetings to record decisions and outcomes. All interviews must have a written record, signed by the interviewer and the subject of the interview. The interview record must only contain first party evidence and not hearsay or speculation⁶. The Participant will be sent a copy of the interview or meeting notes produced, which will constitute the RYA's record of proceedings.

All records detailing the nature of any sort of misconduct, the Participant's defence or mitigation, the action taken and the reasons for it, whether an appeal or review was lodged, its outcome and any subsequent developments, will be kept confidentially. Likewise, the Programme Manager may also keep records relating to a Participant's conduct, the implementation of corrective actions and progression of learning.

8.5 Refunds

No refund or reimbursement of contributions or previously expended costs related to an event or activity will be made by the RYA as a result of disciplinary sanctions imposed.

9. British Athletes' Commission (BAC)

The BAC exists to provide confidential and independent advice and support to all athletes on UK Sport funded performance programmes. Any World Class Performance Programme Participant who is subject to RYA's disciplinary process should consider contacting the BAC as follows:

<u>Email:</u>	admin@britishathletes.org
<u>Phone:</u>	0203 126 4270
<u>Web:</u>	www.britishathletes.org

⁶ First party evidence is evidence that the individual saw or heard. Hearsay is evidence that the individual was told by another party or overheard.

10. Process Flow Chart



