

## **DRAFT** TERMS OF REFERENCE

### **DISCIPLINARY TRIBUNAL**

*NB: Sections in italics are from the Constitution*

#### **1. Purpose**

- 1.1 *The role of the Disciplinary Tribunal is to hear and decide all alleged breaches of the Code of Ethics, the Racing Rules of Sailing (as provided for in the Racing Rules of Sailing or the Regulations) or any other applicable World Sailing rules.*
- 1.2 *It hears and decides any appeals against decisions of World Sailing and decisions of Members to the extent specified in the Regulations.*
- 1.3 *For the avoidance of doubt matters brought under the World Sailing Safeguarding Policy are not dealt with by the Disciplinary Tribunal but by a specialist Safeguarding Disciplinary Tribunal.*

#### **2. Composition**

- 2.1 *The Tribunal composition is as per Article 45.3.*

*The Disciplinary Tribunal is appointed by the General Assembly on the recommendation of the Nominations Panel and must consist of at least seven Independent members who:*

- (a) must be legally qualified (and of an appropriate senior level) or be persons with relevant expertise and experience in legal, sporting or ethical disputes; and,*
- (b) must, taken together, come from different parts of the world and be of both genders.*

- 2.2 *The Tribunal is an Independent Body. "Independent" is defined in the Constitution and means:*

- (a) has not held any position (other than an Independent position) within the Federation or any Member within the three years prior to first appointment;*
- (b) does not have any close connection or relationship with a director or Employee of the Federation; and,*
- (c) from the perspective of an objective outsider, would be viewed as independent.*

- 2.3 *The Tribunal is appointed by the General Assembly on the recommendation of the Nominations Panel.*

- 2.4 *The term of office for members of the Tribunal is four years. A Tribunal member is eligible for re-appointment for one additional term of office.*

## **2. Remit**

- 3.1 *The Tribunal must conduct its work and make its recommendations in an objective and non-political manner. Its procedures must be fair, objective and transparent and must be published on the World Sailing website.*
- 3.2 *The Tribunal must act independently of the Federation (but always in accordance with the law, the Constitution, Regulations, Code of Ethics and any rules of procedure).*
- 3.3 *The Tribunal may request such reasonable support and advice from the World Sailing Executive Office as the Tribunal decides is appropriate.*
- 3.4 *The Board must:*
  - (a) *allocate appropriate resources to the Tribunal to enable it to undertake its functions; and*
  - (b) *appoint and fund an external secretariat to the Disciplinary Tribunal (with the agreement of the Chair of the Tribunal).*
- 3.5 *The Tribunal must report annually to the General Assembly.*

## **4. Appeals from the Tribunal**

- 4.1 *In accordance with Article 45.10 no appeal from a decision of World Sailing, including the Disciplinary Tribunal, lies to the Court of Arbitration for Sport except:*
  - (a) *in accordance with this Articles 45.11 and 45.12;*
  - (b) *under Rule 61(2) of the Olympic Charter for disputes arising on the occasion of, or in connection with the Olympic Games; or*
  - (c) *under any relevant provision of the Handbook of the International Paralympic Committee.*
- 4.2 *Article 45.11 provides there is a right of appeal from a decision of the Disciplinary Tribunal which directly concerns the eligibility of a person to participate in a major international event (as listed in the Regulations) by way of arbitration before the Court of Arbitration for Sport in Lausanne, Switzerland. An appeal may be brought:*
  - (a) *by World Sailing; or,*
  - (b) *by the participant.*
- 4.3 *Article 45.12 provides the time limit for lodging an appeal is 14 calendar days from receipt of the written decision of the Disciplinary Tribunal appealed against. The arbitration is to be conducted in accordance with the Code of Sport-Related Arbitration. The Court of Arbitration for Sport panel is to consist of one arbitrator and the language of the arbitration must be English.*

- 4.4 *Article 45.13 provides in all cases where there is not a right of appeal under Article 45.11, there is a right of appeal from a decision of the Disciplinary Tribunal to an appeal panel of the Tribunal.*

*The time limit for lodging an appeal is 14 calendar days from receipt of the written decision of the Disciplinary Tribunal appealed against. The Chair of the Tribunal must appoint three members of the Tribunal who did not participate in the first hearing to act as the appeal panel. The appeal will be conducted on a review basis and the Tribunal's first decision can only be changed or reversed if the appeal panel finds there has been a material error of law.*

### **3. Procedures**

- 3.1 It is expected that the Tribunal will largely conduct its work by email and video conference calls to fulfil its responsibilities, however it is possible that in person meetings may be necessary.
- 3.2 Tribunal members must inform the Chair of any potential conflict of interests as required by the World Sailing Conflict of Interests Policy.
- 3.3 Due to the nature of the Tribunal's work it is noted that meetings will be in private to discuss matters which are:
- (a) confidential;
  - (b) legally privileged;
  - (c) commercially sensitive; or
  - (d) involve matters of personal privacy.
- 3.4 *The rules of procedure of the Disciplinary Tribunal must be approved by the Board acting on the recommendation of the Governance Committee. Procedures once agreed shall be published on the World Sailing website.*
- 3.5 The Tribunal must review the Procedures at least once every four years with any amendments decided no later than 31 December in the year before the end of the Tribunal's four-year term of office.
- 3.6 Tribunal members must not disclose any confidential information they receive without permission of the Chair and the Chief Executive Officer.

### **4. Expenses**

- 4.1 The positions on the Tribunal are voluntary and not remunerated. However, World Sailing will reimburse any reasonable travel or other expenses incurred in the role in accordance with the World Sailing expenses policy.

### **5. Terms of Reference**

- 5.1 The Board may amend these terms of reference from time to time and the Tribunal may propose amendments for the Board's consideration.
- 5.2 The Tribunal must review these terms of reference at least once every four years with any amendments decided no later than 31 December in the year before the end of the Tribunal's four-year term of office.

5.3 These terms of reference must be published on the World Sailing website.