







Protest Committees and Special Juries



THE VARIOUS PROTEST COMMITTEES

Protest Committee
– Club level

National Jury
– Major regatta level

International Jury
– World Championships

- minimum of 5 members
- minimum of 3 International Judges
- maximum of 2 Judges from one National Authority



THE VARIOUS PROTEST COMMITTEES

Protest committee	Appointed by RC	Appealable
National Jury	Approved by YA	No appeal
International Jury	Approved by YA and/or ISAF	No appeal



PROTEST COMMITTEE QUALITIES

- What technical abilities are needed?
- What personal characteristics are expected?



PERSONAL ABILITIES

- Good rules knowledge
- PC experience
- Observation and listening skills
- Can concentrate
- Knows protest hearing procedures
- Able to find and write facts
- Class and measurement knowledge (at least one member)
- Race management knowledge
- Communication skills
- Racing experience




PERSONAL ATTRIBUTES

- Has integrity, honesty, fairness
- Ability to work within a team
- Respect for competitors
- Good personal behaviour and appearance
- Can avoid any appearance of bias
- Can maintain confidentiality
- Reasoning ability
- Ability to see other points of view
- Diplomacy
- Can maintain good relationships with others
- Able to make hard decisions
- Capable of handling pressure
- Reliable and punctual




CODE OF BEHAVIOUR

- Respect hosts, competitors, colleagues, coaches
- Maintain confidentiality
- Avoid conflict of interest
- Punctual
- Social behaviour - generally act with dignity and decorum
- No drinking until end of hearings
- No smoking or telephones in hearing room
- Respect the role of the Chairman




REACHING THE DECISION

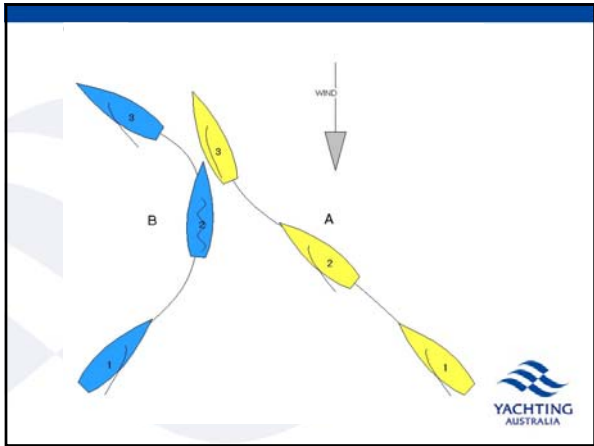
- Concentrate on agreeing the facts (Don't get into rules yet)
- Get input from all members (Ask more inexperienced first. Some members may need to be drawn out).
- Jot down the FACTS which are not in dispute
- Resolve any differences of opinion
- Reach a consensus which all can agree (Try to avoid voting)

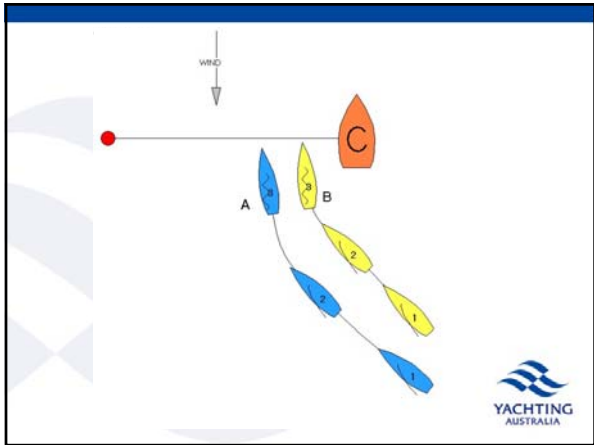


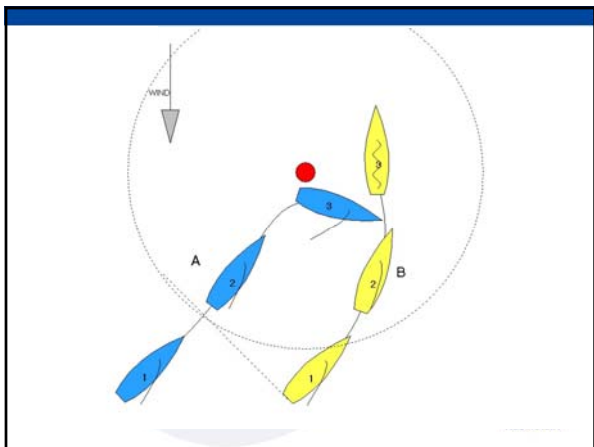
REACHING THE DECISION

- Appoint a 'scribe' to draft some 'FACTS FOUND'
- Edit the draft to a wording which all can agree
- Reach the 'CONCLUSIONS' you can draw from the 'FACTS'
- The applicable rules should now be clear and the decision should now be straight forward.









Receiving the Protest



WHO CAN PROTEST?

- A boat (rule 60.1)
 - From a different race
 - From a different club
- A Race committee (rule 60.2)
- A Protest committee
 - Under rule 60.3
 - Under rule 61.1(c) – during a hearing
 - Under rule 60.4 – serious damage or injury




WHO CAN GIVE A PENALTY?

Only a Protest Committee (rule 63.3(a))
 Except:

- on-water judging or umpiring
- black flag or flag Z


OCS, DNC, DNS, DNF are scores – not penalties

- A disputed improper score can be challenged or investigated through a redress hearing



THE PROTEST FORM

- Different events may use different forms
- Forms are for assistance and standardisation
- Forms are not mandatory (unless stated in the SIs)



WITHDRAWING A PROTEST

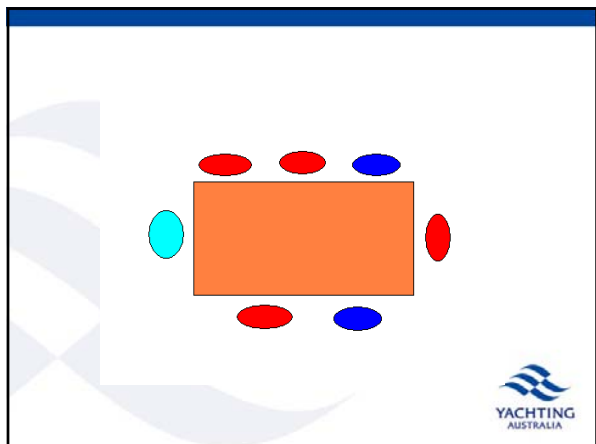
- Not automatic, the Protest Committee must approve
- Find out the reason
- Allow withdrawal unless suspicion of foul play
- Record approval on protest form and get the requestor to sign

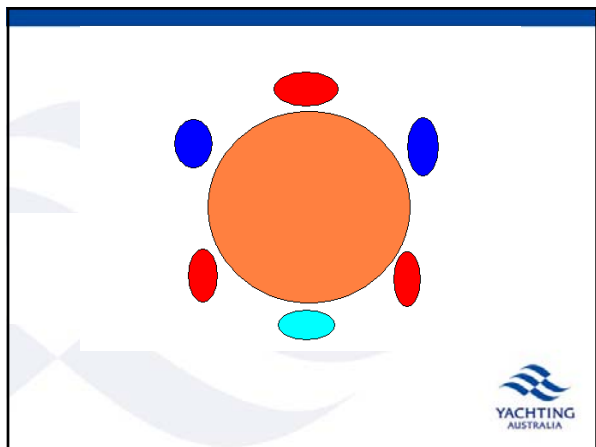


SETTING UP FOR THE HEARING

- Advising the parties
- Giving time
- Reading the form
- Concurrent hearings
- The protest room
 - Quiet
 - Not to be overheard
- The layout
- Boat models







OBSERVERS


- Generally allowed (and encouraged in some situations)
- Chairman must be comfortable
- Silent, at the back and may not leave
- Cannot be a witness
- No recording devices or mobile phones
- Examples: club members, other sailors, parents, coaches, press

The Protest Hearing



ATMOSPHERE

- Appropriate dress code
- Appropriate formality level
 - Relaxed?
 - Formal?
- Polite, respectful yet firm




RIGHT TO BE PRESENT

- One individual from each party
 - When they must have been on board
 - Present during all testimony
- Witnesses
 - Present only while giving evidence
- Absent parties
 - PC may still decide the protest
 - PC may re-open




PROTEST PROCEDURE

- Introduction
- Interested party
- Interpreter?
- Validity
- Protestor's story
- Protestee understands?
- Protestee's story
- Protestor understands?
- Protestor's questions
- Protestee's questions
- Jury questions
- Protestor's witness(es) called
- Questions to the witness (protestee asks first)
- Protestee's witness(es) called
- Questions to the witness (protestor asks first)
- Final statements (protestor first)
- Agree facts, conclusions and rules that apply, decision
- Inform parties of decision




INTRODUCTIONS AND INTERESTED PARTY ON PC

- Introductions
- Objections by a party to an 'IP'
- An 'IP' cannot take part in the hearing
- BUT, an 'IP' can be a witness



CONFIRM VALIDITY

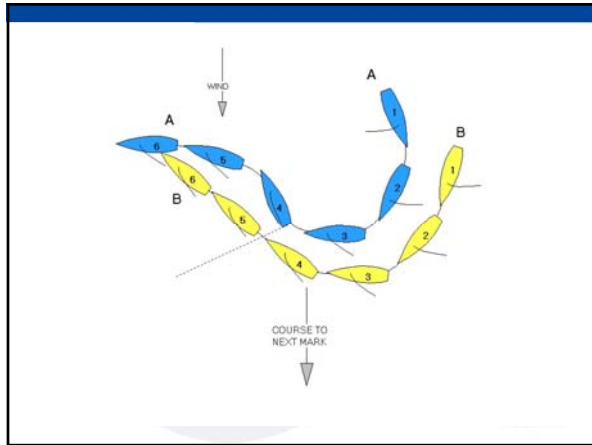
- Must inform protestee
 - Hail or other means
 - Flag (not required under 6 m)
- Must be in writing
 - Must identify the incident and protestee
 - Other details may be corrected
- Must meet protest time limit
 - Time limit may be extended

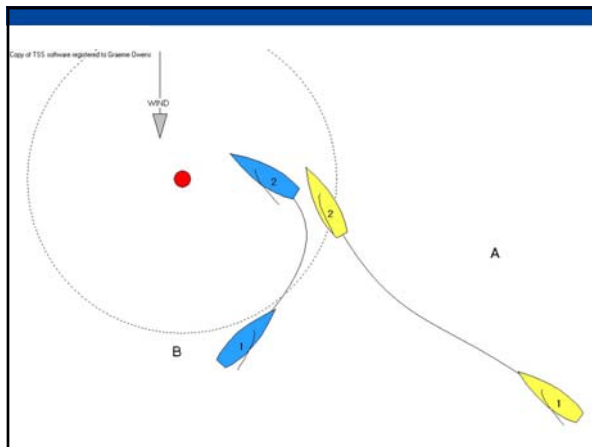


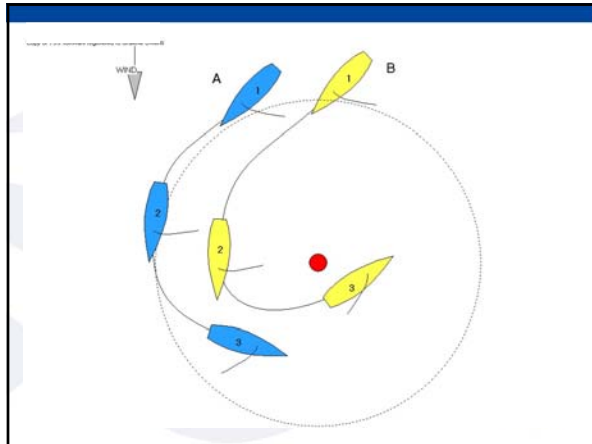
VALIDITY DECISIONS

- Excuse all present if the PC needs to discuss the validity
- Seek out validity, NOT invalidity
- Decide validity, then
 - If valid, hearing will continue
 - If invalid, hearing is closed










CHAIRMAN'S MANAGEMENT

- Keep control
- One person speaks at a time
- Discourage inappropriate behaviour
- Discourage leading questions



LISTENING TO TESTIMONY

- Control your facial and verbal expressions
- Be aware of the parties' body language
- Listen carefully
- Take notes
- Varying testimony does not necessarily mean that someone is lying



WITNESSES

- Each party has the right to call any witnesses
- Develop techniques to reduce unnecessary number
- Keep witnesses to the point
- Order of questioning
- Remember to thank



QUESTIONING TECHNIQUES

- What rules might apply to this incident?
- What are the boats' obligations under these rules?
- What facts are needed to determine whether boats met these obligations?
- What question will help establish those facts?
- *Ask only questions that help find facts*



OTHER EVIDENCE

- Hearsay is no evidence
- Photographs
- Video
- Evidence from a PC member
- Written testimony by absent author
 - Accept only if all parties agree (witness cannot be questioned)



FINAL STATEMENTS

“Now is the time for your final statement should you wish. There is no need to repeat your story but there may be some particular matters you would like the protest committee to think about.”



THE DELIBERATION PHASE

- Ask parties and observers to leave
- Don't laugh, don't joke
- Wait until all out of earshot
- Remember discussions are private and confidential
- Keep matters moving




RESOLVING CONTROVERSIAL ISSUES

- Back up to 'last point of certainty'
- Can recall parties or witnesses for missing information
- May need to agree the most likely scenario
- Try to get unanimity among PC members
- Last resort: take a vote



CONSIDERING RULE 14


- Was there contact?
- If yes, did any boat break rule 14?
- If yes, does any penalty apply?
- Must be covered in **FACTS** and **CONCLUSIONS**



CONCLUSIONS

A simple statement of:

- which boats
- broke which rules
- and why



THE DECISION

- If no rule broken – dismiss protest
- If boat(s) broke a rule – must DSQ
- Exceptions:
 - Exoneration when *compelled* to break a rule
 - Other penalties may be in SIs
 - Rule 14(b)
 - Race was restarted or resailed
 - The boat was not racing
 - Penalty turn(s) taken



INFORMING THE PARTIES

- Recall parties to the protest room
- Others may attend
- Read facts found and decision
- Arrange for a copy of decision if requested & include a diagram if relevant
- OK to briefly explain decision, if time, BUT no lengthy discussion, arguments or disagreements



Other Protest Issues



DIFFICULT COMPETITORS

- Be patient but firm
- For contested hearing decisions
 - Best left to a later time
 - Explain the PC's duty to find facts *based on the evidence given* and make a decision
 - Do not act alone
 - Avoid arguments – just give an explanation



INEXPERIENCED OR YOUNG COMPETITORS

- Need empathy and understanding
- Be willing to answer questions
- Be willing to explain decisions
- Take special care to demonstrate fairness and impartiality



MEASUREMENT PROTESTS

- Measurer cannot protest
- Measurer must report non-compliance to RC
- RC must then protest
- Decision to be based on rule 64.3
 - Sometimes not DSQ
 - Boat may race if intending to appeal
 - Costs born by unsuccessful party



MEASUREMENT DOUBTS

When in doubt, the Protest Committee:

- Must ask 'measurement authority' and
- Is bound by their reply



RE-OPENING A HEARING

Sources

- Request from boat (<24 hours)
- Request from RC (<24 hours)
- The Protest Committee itself




DECIDING WHETHER TO RE-OPEN

Have a preliminary meeting to decide:

- Investigate the party's new evidence
- Consider other information


Re-open only if

- a *significant error* may have been made, or
- *significant timely new evidence* is available



IF HAVING DECIDED TO RE-OPEN

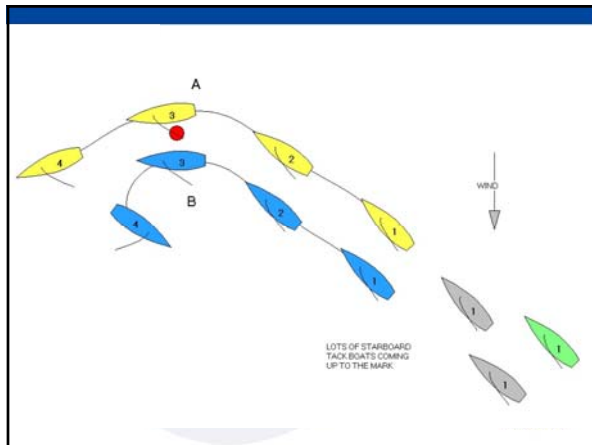
- Inform the parties
- Same PC members if possible
- Rules of Part 5 still apply
- May or may not reverse the decision

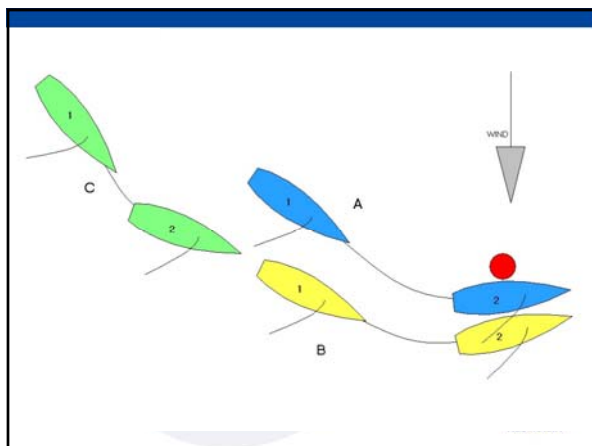


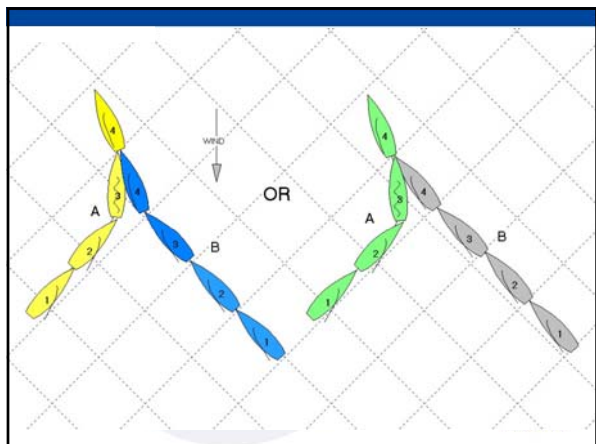
APPEALS

- Co-operate, don't impede
- PC will be given opportunity to comment
- Appeal committee may ask for more information
- Appeal committee has many options












REDRESS

- Boats cannot protest the RC or PC
 - May request an *error* be corrected
- Boats may request redress
- RC may request redress for a boat
- PC may call a hearing to consider redress
 - No redress can be given without a hearing



VALIDITY OF REQUEST FOR REDRESS

- Must be in writing
- Must meet protest time limit
- If not racing, within 2 hours of incident
- Time limit may be extended
- No flag required



QUALIFYING FOR REDRESS

EACH of these conditions must be satisfied

- No fault of her own
- Finishing place made significantly worse

For one of 4 reasons ...



QUALIFYING FOR REDRESS

- Improper RC or PC action or omission
- Physical damage by:
 - boat breaking a Part 2 rule
 - keep-clear vessel not racing
- Giving help under rule 1.1
- Due to a boat penalised under rule 2 or disciplined under rule 69.1(b)



RACE COMMITTEE ERRORS

Could be:

- Mistiming or incorrect signals
- Improper notification of a change to SIs
- A scoring error
- Wrong identification of a boat
- A missing or drifting mark



PROTEST COMMITTEE ERRORS

Could be:

- An incorrect decision
- Improper procedures
- Collision with a jury boat
- On-the-water rule 42 penalty error



PHYSICAL DAMAGE

Must be caused by:

- A boat breaking a Part 2 rule, or
- A vessel required to keep clear


The damage must have resulted in loss of places.



PHYSICAL DAMAGE

Examples:


- Broken rudder
- Badly torn sail
- Injured crew member



NOT PHYSICAL DAMAGE


Examples:

- Capsize
- Rigs or lifelines entangled
- Disadvantage resulting in loss of place in the race
- Crew overboard



GIVING HELP

- A boat must comply with rule 1.1
- Any reasonable decision to give help – ISAF Case 20



REDRESS DECISION

- Redress cannot be considered without a hearing
- When redress requirements have been met
 - The PC must make as fair an arrangement as possible
 - may need testimony from other boats
 - must consider all boats possibly affected
 - must abandon a race only as a last resort



FAIR ARRANGEMENTS

- Scoring adjustments suggested in rule A10
 - Position at last mark
 - Time adjustment
 - Average points
- Give redress to all boats affected
- Fairest arrangement may be to do nothing
- Abandon race – last resort only




Hearings Involving Misconduct




**RULE 69
GROSS MISCONDUCT**

- Addresses behaviour of competitors, not of boats
- Rule 69 is a procedural rule, it cannot be broken by competitor
- Rule 69 is not protestable
- PC *may* act on report or observation



RECEIVING A RULE 69 REPORT

- May be from any source, including an interested party
- Does not have to be in writing
- May be in any form, eg
 - Video
 - Protest form
 - Testimony in a hearing



RULE 69 HEARINGS

- PC must decide whether or not to call hearing
 - May interview the 'reporter' or the accused
 - Consider other information as needed
- If yes, PC must inform competitor in writing of
 - Time and place of hearing
 - Statement of allegation



PC's ACTIONS IN RULE 69 HEARINGS

- Must have at least 3 members
- May issue warning or penalise
- Any penalty must be within the PC's jurisdiction
- Report penalty to the NA(s)
 - No need to report a warning
 - NAs advise competitor, venue, boat owner



RULE 2 - FAIR SAILING

- Can be applied alone
- Must be CLEARLY ESTABLISHED
- Boats, PC and RC can protest under rule 2
- Penalty is DNE



Damage and Injury



SOME THOUGHTS ON DAMAGE AND INJURY

- Damage by right-of way boat or boat entitled to room – rule 14(b)
- Boat which broke a Part 2 rule and caused serious damage must retire – rule 44.1
- No redress unless *physical damage* – rule 62.1(b)
- Jury may protest if *serious damage* or *serious injury* – rule 60.4



DAMAGE

Not possible to define, but ISAF Case 19 suggests:

- Market value diminished?
- Item or equipment made less functional?
- Crew member injured?



SERIOUS DAMAGE

Not possible to define, but ask if:

- Performance of boat or crew seriously impaired?
- Market value significantly diminished?
- Crew member seriously injured?



PHYSICAL DAMAGE

Example of physical damage

- Real damage to boat or crew

Examples of what is NOT physical damage

- Capsize with no damage causing loss of places
- Rigs or lifelines entangled



SERIOUS INJURY

Example

- Injury requiring medical attention beyond minor aid



