

PROTESTS

WHAT SHOULD I DO?

A handbook for racing sailors

**Answers to sailors most
Frequently Asked Questions
about protest matters**

2021 Edition

Created by Graeme Owens OAM (1998)

Amended/edited by Christina Heydon (NJ) 2016

Amended/edited by Christina Heydon (NJ) 2021

WHAT SHOULD I DO ?

THIS IS NOT A RULEBOOK !!

This is a handbook for serious racing sailors.

Here are the answers to the majority of frequently asked questions about protest matters.

There are helpful pointers that you may not have considered.

Please read, at least, the “on-water” sections, then keep the handbook with your gear.

Don't fall into the trap of believing that you will never be involved in a protest.

Background:

This handbook was created by Graeme Owens two years before the Sydney 2000 Olympics. Graeme was working with sailors who were on the “Olympic Athlete Programme”. During that time the sailors were being encouraged and financially helped to attend numerous Championships overseas & in Australia. Graeme was not always travelling with the sailors so he put the handbook together to assist them to keep out of trouble. Additionally, it would assist in preparation for those of the group who were finally selected to compete in Sydney.

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NOTES:

1. The rules referred to are the Racing Rules of Sailing 2021-2024.
2. Some Class Rules & Sailing Instructions (SI's) may change the two-turn penalty to a one-turn penalty. This document will narrate both the two-turn penalty & the one-turn penalty as a "*penalty*".
3. Appendix B - Windsurfers have slightly different penalty turns.
4. Appendix F - Kiteboards have slightly different penalty turns.
5. Basically, classes that are under 6 metres, do not require a protest flag (61.1(a)(2)).
6. Please make the appropriate adjustments for your own Class Rules.
7. Familiarise yourself with the Notice of Race (NoR) and Sailing Instructions (SI's) for any changes to the rules and other general requirements.
8. Numbers (e.g. "31") are to assist the more devout rules person and are the current Racing Rules of Sailing rule numbers.

PROTESTING ON THE WATER

What is the best way to protest on the water (61)?

Immediately hail the word **“Protest”** (61.1(a)) loudly.

It will help if you can also hail the boat's sail number or name, hail loud enough so that other boats that are nearby can also hear you.

Display the red protest flag quickly (61.1(a)) and leave it flying until you have crossed the finish line.

Rule 61.1(a)(2) “if the hull length of the protesting boat is less than 6 metres, she need not display a red flag” (SI's/class rules may say red flag required).

The other boat caused me to capsize. What if he is now too far away to hear my hail? (61.1(a)(1)).

You “need not hail”, but it is probably advisable to hail and let other boats, that are near you, hear your hail.

You are required to “inform the other boat at the first reasonable opportunity”. (61.1(a)(1)). This may be when passing on different legs, after finishing, or immediately after coming ashore.

The other boat did a penalty (44.1) after I protested. What should I do?

If you are satisfied the penalty was because of your protest, then you need do nothing more.

Have you been damaged or injured? ((44.1(b)) & redress) This is discussed later as to why you should still lodge a written protest/redress.

The other boat did a penalty but I am not sure if it was in response to my protest. What should I do?

Keep your flag displayed.

After the race try to find out if the boat did the penalty because of your protest. You may be able to do this by checking the ‘penalty declaration sheet’ (if there is one) or by asking the skipper.

If you are unable to find out why they did the penalty or if they did the penalty because of some other reason, then lodge a written protest.

The other boat did a penalty (44.2) but it was a long time after my protest. What should I do?

Keep your flag displayed and lodge a written protest.

After I protested, the other boat did a penalty (44.2) but my boat was damaged in the incident (44.1(b)). What should I do?

Keep your flag displayed and lodge a written protest/redress.

Mention on your protest form that there was serious damage /physical damage /injury (44.1(b)) and that you are also requesting redress (if applicable). Also, include that the boat took a penalty.

After I protested, the other boat did not do a penalty. What should I do?

Proceed with your protest.

The other boat is doing a penalty but is also protesting me. What should I do?

Decide quickly whether to do a penalty or to defend the protest in the protest room.

Note: The protest room has some risk. You could receive no penalty but you could receive a DSQ. If a penalty can be taken without too much loss, then you may feel that is the best option.

After I protested, I was very busy and did not see whether the other boat took a penalty. What should I do?

Ashore, check the 'penalty declaration sheet' (if there is one).

If you are still in doubt, ask the skipper if they did a penalty and for which incident. You can always check with other competitors.

If you are satisfied he did the required penalty, there is no need to proceed.

If you are not satisfied, lodge a written protest.

I have lodged a written protest but now I do not wish to proceed with it? What should I do?

Advise the race office that you wish to withdraw your protest (63.1).

The race office will ask you to sign a "withdrawal request" and the protest committee will confirm that the "withdrawal is permitted".

A boat broke a rule but it was before the Preparatory Signal.

Should I protest?

“A boat is racing from her preparatory signal” (Definition: Racing), if you have not been damaged, then there is nothing to gain by protesting. If there is damage or injury then you should hail “protest”, display your flag and lodge a written protest/redress form (62.1(b)).

I saw an incident between two boats but the boat that broke a rule was not protested. Can I protest him?

Yes. Hail “protest” and display your red flag (61.1(a)). If the boat is too far away to hear, notify them as soon as you can (61.1(a)(1)).
Lodge a written protest.

I think I should protest but I am not too sure of the rule. What should I do?

Hail “protest” and display your flag.
The other boat may realise they have broken a rule and do a penalty.

If no penalty is taken, you can always check the rule book when you get ashore and decide whether to lodge a written protest.

I saw a boat break a rule right in front of a judges' boat. They must have seen it. Should I still protest?

Yes. Protesting is your job, not the job of judges or race committees.

Judges and Race Committees have the authority to protest for a racing incident, but usually they will not do so if they are aware that another competitor has seen the incident. Judges & Race Committee people are not the police (except when specifically judging rule 42). Judges generally feel that if a competitor has seen a boat break a rule and they do nothing, then that competitor must not be concerned about the other boat breaking a rule. The judges are then reluctant to interfere or to do the competitor's job for them.

BEING PROTESTED ON THE WATER

What is the proper way to do penalty turns?

“After getting well clear of other boats as soon after the incident as possible” (44.2), make the required number of turns in the same direction, each turn including one tack and one gybe.

Ensure that there are no other boats approaching that may need to avoid you before you have finished your penalty (21.2).

What if I am surrounded by other boats?

You must still get clear, as soon as you can, even if it means slowing down or legally luffing other boats to get clear.

When I get clear of the other boats and start my penalty, another boat arrives and has to avoid me (21.2)?

You may now have broken a second rule (21.2) if that other boat protests you.

If you are protested you must do another penalty, after you finish the initial penalty.

But the other boat altered course and deliberately came at me. Does that make a difference?

“Except when sailing her proper course, a boat shall not interfere with a boat taking a penalty” (23.2). If you are *very* sure that this happened and you are very sure you could convince the protest committee, then you need not take a second penalty but you should hail “*protest*” and display your flag.

It was just at or after the finish line when I broke a rule. Must I return to the course side of the line before I do my penalty?

No. You can do your penalty anywhere, but you must cross the finish line again after doing your penalty. (Definition: Finish)

It was before the Preparatory signal when I broke a rule. Should I do a penalty?

No. There is no penalty before the Preparatory signal.

**It was between the Preparatory signal and the Start signal when I broke a rule. Should I do my penalty now or after starting?
(Definition: Racing & 44.1)**

Do your penalty now. “As soon after the incident as possible” is a requirement (there is no requirement to wait until the Start signal).

Do all these answers still apply if it is only a one-turn penalty that applies to my class or I have touched a mark?

Yes.

I am being protested. Should I do a penalty or go to a protest hearing?

If you know you are in the wrong - do your penalty.

If you do not think you are in the wrong and you are sure you could successfully defend your case - go to a hearing.

If you have strong doubts that you could successfully defend your case - do your penalty.

If a DSQ in a hearing will ruin your chances in the series but a penalty on the water will not - do your penalty.

I broke a rule and the other boat is seriously damaged. What should I do?

Retire. Penalty turns on the water do not apply when you have caused serious damage or injury (44.1(b)).

Failure to retire may result in you being penalised under rule 2.

A rule 2 disqualification is a DNE and is not excludable.

“Protest” is being hailed at me but I do not believe I was the boat at fault, so I will not do an on water penalty and I will go to a hearing. Should I hail “protest” in reply?

Yes. It is best to lodge a written protest and go into a hearing with a counter accusation against the boat at fault, rather than go in just as the defendant.

“Protest” is being hailed at me but I believe I was caused to break a rule by a third boat (not the protesting boat). What should I do?

Hail “*protest*” and call the sail number of the third boat, display your flag.

What if that third boat does an on water penalty?

There is no need for you to do an on water penalty but you should still lodge a written protest against the third boat.

In order to be exonerated from the first boat's protest you will need to convince the protest committee that the third boat was to blame. Your protest and that boat's on water penalty will help your case.

What if that third boat does not do an on water penalty?

Quickly decide if you are going to do an on water penalty.

If you feel sure you could convince the protest committee that the third boat was to blame, then do not do an on water penalty and go to a hearing.

Caution: The protest committee could decide the third boat broke a rule but that was not the cause of you breaking a rule. If you think this could be the result, then do an on water penalty.

I had contact with another boat. Must one of us protest?

If there was contact (14), one of you must have broken a rule! A third boat, seeing the incident, may protest whichever of you it believed was the boat at fault. So, Yes.

I have been protested, I know I was in the wrong, but the right of way boat ran into me and there is damage to my boat (14, 44.1(b) & 62.1(b)).

What should I do?

Hail "*protest*" and display your flag (61.1).

Do you're on water penalty if you can still race (44).

Lodge a written protest/redress stating "rule 14" or "avoiding contact" as the rule broken.

You could ask for redress (62.1(b)) at the hearing but the damage was partly your fault and therefore you are unlikely to receive redress.

Caution: Even if you are the right of way boat you must still avoid contact (14) if possible. If you do not avoid contact and there is damage or injury, even to your *own* boat, you may be given a DSQ at a protest hearing.

TOUCHING A MARK (31)

I think I may have touched a mark (31). What should I do?

Decide, quickly, if you intend to take the “*safe*” option and do the one-turn penalty (44.1 & 44.2). If you do not do the on water penalty and you are protested by another boat, you may receive a DSQ.

Once an on water penalty has been done a boat cannot be penalised further for touching that mark, except in special circumstances where the boat has gained a significant advantage (44.1(b)) for touching the mark.

I know I touched a mark (31) but I was forced onto it by another boat that should have given me mark room (Definition: Mark-room).

What should I do?

Two choices:

Hail “*protest*”, display your flag and do a penalty. Do this if you are not *sure* you could convince the protest committee that the other boat was to blame. You may later decide not to proceed with the protest.

Hail “*protest*”, display your flag and do **not** do an on water penalty. Do this only if you are sure you can convince the protest committee that the other boat was to blame.

The penalty for not taking a penalty after touching a mark (31) is a DSQ, but the protest committee may exonerate you if it is satisfied you were compelled to touch the mark by another boat that was breaking a rule.

What if I do a one-turn penalty and they do a two-turn penalty?

Nothing more need be done.

What if I “protest” at the time, I do an on water penalty but the other boat does nothing?

You are now “*safe*” but you may still choose to lodge a written protest against the boat.

What if I hail “protest” at the time of the incident and neither of us takes an on water penalty?

Now you are not *“safe”*. You can lodge a written protest but you may be DSQ unless you are able to convince the protest committee that you were forced to hit the mark by the other boat and that it was required to give you mark room.

Further, you could be protested by another boat who saw you touch the mark. At that hearing you may be DSQ unless you are able to convince the protest committee that you were forced to hit the mark by a boat that was required to give you mark room.

What if I hail “protest” at the time of the incident, the other boat does a penalty but I do not take a penalty?

Nothing more need be done.

You could still be protested by another boat for touching the mark. At that hearing you may be DSQ unless you are able to convince the protest committee that you were forced to hit the mark by a boat that was required to give you mark room.

I hailed “protest” and the boat did a penalty, I did not do a penalty but a third boat is protesting me for touching the mark (31). What should I do?

After the race, find the boat you protested and ask them if they did the penalty because he forced you to hit the mark (Definition: Mark-room). If they say “yes” then you can advise the third boat and ask them to withdraw the protest.

If the boat you protested says he did his penalty for some other reason (perhaps just to be *“safe”*) and they do not believe that they were in the wrong in causing you to hit the mark, then you will need to lodge your written protest.

If the third boat does not drop their protest, then you should lodge your own written protest.

<p>Caution: If you touch a mark (31), and do not take a penalty (44.1) and then go to a protest hearing, unless you are able to convince the protest committee that you were forced to hit the mark by a boat that was required to give you mark room, you will be DSQ.</p>
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I was the outside boat and an inside boat touched the mark. They hailed “protest” at me for not giving them enough mark room. What should I do?

Doing a penalty is not an admission of being in the wrong. A boat that has done a penalty can still protest another boat. In the protest hearing the boat should stress to the protest committee that the penalty was done just to be “safe”.

Decide quickly whether you will do a penalty. If you take a penalty you are “safe” and nothing more can happen to you.

If you do not do a penalty and go to a protest hearing, the case may be dismissed, but if you lose the protest you will be DSQ.

I do not think I caused the inside boat to touch the mark but I did a penalty to be “safe”. Can I still protest the boat for touching the mark?

Yes.

THE PROPULSION RULE (Rule 42)

Appendix P advises the special procedures for rule 42. “All or part of this appendix applies only if the notice of race or sailing instructions so state”.

If Appendix P is to be applied there will be rule 42 Judges on the water who watch and penalise boats that break this rule. Immediate penalties are required.

Read Appendix P - there are different penalties for the 1st, 2nd & 3rd infringements.

Read the SI's - the SI's sometimes modify the penalties to make them less onerous.

Basic Penalties under Appendix P:

1st Penalty – Two-turn penalty or DSQ

2nd Penalty - Retire promptly or DNE (not excludable)

3rd Penalty - Retire promptly and a DNE score or DNE for the whole regatta and consideration for a rule 69 hearing.

What if the judges signal a penalty on me but I do not agree?

Take the penalty.

A boat that is penalised can decide not to take the penalty but they should read “Appendix P – Redress Limitation” before they take this road. Failure to take the penalty is more onerous with DNE's in the wing.

WRITTEN PROTESTS

I have been protested on the water but I think it was the other boat that broke a rule. I cannot risk a DSQ so I am doing an on water penalty. Can I still lodge a written protest?

Yes, if you hailed “*protest*” and displayed your red flag.

Doing a penalty does not mean that a boat has admitted to being in the wrong. If a boat has taken a penalty and ends up in a protest hearing, as either the protestor or protestee, they should stress to the protest committee that the penalty was done just to be “*safe*”.
Once a boat has done a penalty it is unlikely that it will be DSQ even if the protest committee decides it was the boat at fault.

I am about to finish, my protest flag is displayed and I am going to lodge a written protest. Must I advise the finish boat?

If the sailing instructions state that you must - YES

If the incident has been close to the finish line or your flag went up after you had finished – advise the finish team.

In other cases, it is not essential, but it is still a good idea, to try to make sure the finish boat has seen your flag.

I have just seen something ashore that I wish to protest. What should I do?

“Inform the other boat at the first reasonable opportunity” (61.1(a)) and lodge your written protest without delay.

Protests that are not racing area matters usually involve class rules, equipment, safety or some other sailing instruction matter. The usual after race protest time limit (61.3) is not applicable but the protest should be lodged “no later than 2 hours after the protestor receives the relevant information” (61.3). If a competitor is aware of an infringement but waits until after the next race or the next day before protesting, then the protest may be ruled invalid and not heard.

The boat I wish to protest is way below me in the scores. Should I still go ahead and lodge my protest?

If you have a coach, then discuss it with your coach.

The incident may be serious and deserves to be taken to a hearing.

The incident may not be clear-cut or is minor and you may decide going through a full hearing is not worth the effort.

If you have an important race the next day and a late night protest hearing, this could be a disadvantage to your own performance.

I protested a boat on the water and they did not do a penalty. Must I now inform him ashore that I will be lodging a written protest (61.1(a)(1))?

If you feel he may not have heard your hail of “*protest*” on the water, then it would be best to advise him again “at the first reasonable opportunity” after the incident.

How much should I write on the protest form (61.2)?

It is not necessary to write down your full story. You can save the details until you are giving evidence in the protest room. Just write enough to make it clear why you feel the boat broke a rule.

Do I need to include a diagram (61.2(b))?

To avoid the possibility of a protest being declared “invalid” it is better to give too much detail rather than too little, so include both words and the diagram.

I cannot find the actual rule number. What should I do?

Words that explain what you mean such as “not giving room at the mark” are OK if both the protest committee and the protested boat are able to understand clearly what you are protesting about.

I am still looking for witnesses and the protest time limit is nearly up. Can I call witnesses at the hearing if I have not identified them on the form?

Yes.

Can I call my crew as a witness?

Yes.

I do not know all the details of the protested boat, e.g. boat name, sail number, skipper's name (61.2(a)). What should I do?

Give as much information as you do know - enough to leave no doubt as to which boat you are protesting.

What is the latest time I can lodge my protest (61.3)?

The time is usually given in the sailing instructions, but if no time is mentioned it will be “two hours after last boat in the race finishes” (61.3) The protest time limit is often written up on the official notice board.

If the protest concerns something other than an incident on the racing area “other protests shall be delivered to the race office no later than two hours after the committee receives the relevant information” (61.3).

It is not possible for me to lodge the form in time. What should I do?

Lodge the form as soon as possible and include a letter to the protest committee explaining why it was not possible to lodge the form earlier. At the end of your note say something like “I respectfully submit that an extension to the time limit is necessary in the circumstances”.

PRIOR TO THE HEARING

I am not sure if I am being protested. How can I find out?

The SI's will advise where protests are to be lodged and what the time schedule is, you may ask whether a protest has been lodged against you. You must wait until the Schedule of Hearings (63.2) has been posted to be sure. This is usually about 30 minutes after the protest time limit (61.3).

At a major event, competitors should always wait and check the Schedule of Hearings (63.2) before departing. It is not wise to leave at the end of the protest time limit (61.3), sometimes the protest committee accepts a late protest. The Schedule of Hearings could be the first advice a boat has that it is involved in a hearing.

If a hearing is listed and a boat has no representative at the start of the hearing, the hearing may proceed without them (63.3(b)).

I know that I am being protested. Am I allowed to see the protest form?

Yes. You should ask at the race office for a copy of the protest to help you prepare your defence (63.2).

I am concerned that my witness may not be available at the time my hearing starts. Can I do anything?

You could quickly address a note to the protest committee and ask for the note to be delivered immediately. The note should explain your problem and request that your hearing be scheduled as late as possible. The protest committee *may* agree.

I am concerned that I will not be available to attend my hearing. Can I do anything?

You could quickly address a note to the protest committee and ask that the note be delivered immediately. The note should explain your problem and request that your hearing be deferred until the next day. The protest committee *may* agree but you would need a very good reason.

What if I cannot attend but the protest committee will not allow my hearing to be deferred?

Get your crew to go to the hearing as your boat's representative (63.3(a)). If there is no crew, maybe you can find someone else to be your representative.

Does that mean I can always have someone else represent me at my hearing?

No. If the protest involves an incident in the racing area, then the “representatives of boats shall have been on board at the time of the incident,” (63.3(a)). If there is good reason, the protest committee may allow someone else, but this is not usual.

If the hearing does not concern a racing matter, perhaps something more technical like measurement, fair sailing, behaviour or redress, then you are permitted to have another person act as your boat's representative (63.3(a)).

Does this mean that my crew could always present the case as the boat's representative?

Yes. If you feel you have a crew who would be more confident or more capable in front of the protest committee, then that crew could present the case and you could be called as a witness.

Can the hearing proceed without me or some other representative from my boat attending (63.3(b))?

Yes.

The Schedule of Hearings (63.2) and the time for my hearing has been posted on the notice board. This is the first I have heard of the protest and there is not enough time to find witnesses or prepare my defence (63.2). Can I do anything?

Quickly contact the protest committee, probably through the race office. Explain your problem and request that you be given more time to prepare for the hearing (63.2).

But I have already been called to the protest room. What can I do now?

Attend the protest hearing, but before the hearing starts, explain your problem and request that you be given more time to prepare (63.2).

The Schedule of Hearings gives a time for my hearing. The time was an hour ago but my hearing has not yet started. Can I go home?

Unfortunately, No. It is quite common for hearings to take longer than first expected, therefore hearings that follow, start late. You must continue to wait close by.

THE PROTEST HEARING GENERAL

My hearing is just about to start. Can I attend in my sailing clothes?

Your sailing gear will be OK but make sure you are tidy (& dry). Do not attend without a shirt or shoes and do not wear your hat.

How should I address the protest committee?

With respect. Use titles like “chairperson”, “sir” or “madam”. Say something like “Good evening” as it will not harm your case to be polite and co-operative.

The party I am protesting has claimed to the protest committee that I did not hail “protest”. What should I say?

If you did hail properly just explain to the protest committee that you hailed loudly and the other boat was close enough to hear but if the other boat did not hear perhaps it was because (for example) there was a lot of other noise or shouting on that boat or that they may have been busy hoisting the spinnaker.

It is best not to create an argument by suggesting the other party is not being honest.

If someone on the other boat answered you in some way at the time or made eye contact with you, mention this.

If I am being protested should I first tell the protest committee that the other boat did not hail “protest” or show the red flag properly?

Take care. The protest committee may wonder: “Are they trying to get this protest declared invalid because they feel they do not have a good defence?” or “Are they suggesting they would have done a penalty if they had known they were being protested? Does that mean they think they were in the wrong?”

If you do not feel you were protested properly explaining to the protest committee in some way like this may be best:

“I did not believe I had broken any rule but had I known I was being protested I would have done a penalty just to be *“safe”*. Because there

was no immediate hail there was no way I could know I was being protested so I was deprived of my chance to do my penalty”.

Succeeding in a protest can be considered a two-stage process. The first stage is to get your protest accepted as **valid** (63.5). Without a valid protest there will be no second stage, the actual hearing. No matter how strong your case, unless your protest is first found to be valid, you cannot succeed.

The protest chairman has asked me if I object to any member of the protest committee on the grounds of that person having a “conflict of interest” (63.4). What should I answer?

This is a standard question the protest committee must ask. Protest committee members are unlikely to be influenced by any bias when considering their decision, so answer something like "Definitely not". You may offend a protest committee member by making an objection. You must avoid giving offence.

The other party wishes to use an interpreter. Is that OK?

You do have the right to object if you feel the proposed interpreter is unsuitable such as being the other party's coach or father. You should then politely advise your objection and the reasons to the protest committee chairperson.

The protest committee has not accepted my objection because there is no other interpreter available. Is that OK?

Yes, but if this happens you could ask the protest committee if it is possible for the interpreter to be seated where they cannot make eye contact with the other party.

Is a coach permitted to attend the hearing?

If a request is made to the protest committee, it *may* allow someone like a coach to attend but only as an “observer”.

They would probably be required to sit at the back and would not be permitted to speak or to leave before the hearing has ended.

Part way through the hearing the protest committee told us all to leave the room and wait outside. May it do that?

Yes. Usually this is to enable the protest committee to discuss some matter of procedure amongst themselves.

I do not agree with something about the way the hearing is being conducted. Is there anything I can do?

Examples of some procedural objections could be:

1. I have not yet been given the opportunity to question this witness, “A party present at the hearing may question any person who gives evidence” (63.6(c)).
2. The other party and his interpreter are being permitted to discuss matters instead of the interpreter just giving a direct translation.
3. I have not yet been allowed to call one of my witnesses (63.6(a)).
4. I have not been asked to “sum up” my case.

You may object but you must make your objection to the protest committee at the time. Do it politely. It will be too late if you say nothing at the time then complain later.

THE PROTEST HEARING

ASKING & ANSWERING QUESTIONS

Are there any special ways of answering questions that could help me in a protest hearing?

Always try to be *positive or firm* with your answer so that nobody is left doubting you.

Here are some examples:

“Most certainly not” is better than “No”.

“I made sure I gave him room” is better than “He had room”.

“Yes - I know I did” is better than “I think I did”.

What about asking questions? Any suggestions?

1. Don't ask unnecessary questions - ask just those questions that should help confirm your version of events.
2. Don't ask your own witness a question if you are not reasonably sure how they will answer it.
3. Don't ask a question of the other party (or one of their witnesses) that starts “Don't you think”. Their simple answer of “No” will probably harm your case.
4. If the other party (or one of their witnesses) gives an answer that *does not* help your case never ask “Are you sure?” The answer will probably be “Yes” and then you have reinforced your opponent's case.
5. If any witness gives an answer that you think *does* help your case you may ask “Are you sure of that?” Then an answer of “Yes” reinforces your own case for the protest committee.
6. If you have no more questions of anyone then say so.
Do not think up questions that have no real purpose as this wastes time and may even annoy the protest committee.

The protest chairperson told me not to “lead my witness”. What does that mean?

It means you must not make it clear to a witness what answer you want them to give to your question.

For example, if you asked your crew witness “We had an overlap at three boat lengths, didn't we?” this is leading them because it makes it clear what answer you wish them to give.

If the question was “Did we have an overlap at three boat lengths?” it would not be leading them.

THE PROTEST HEARING WITNESSES

How many witnesses should I bring?

One witness who saw it all and can give a clear explanation may be enough. One good witness is much better than any number of witnesses who did not see everything and so may not be able to confirm your version.

If you have a number of witnesses who all saw the same thing, it will not necessarily help your case by calling them all and having them all repeat the same answers. You could risk annoying the protest committee if it seems you are wasting time.

Am I permitted to bring my crew as a witness?

Yes, but be aware that the protest committee will probably place more importance on the evidence from someone who is not your crew.

Should I talk to my witnesses before the hearing?

Only sufficient to make sure they saw enough to be able to support your evidence.

Do not call a witness if they have seen nothing of real value. This could damage your case and the protest committee may even think you are wasting time.

Do not “coach” a witness before a hearing and tell them what to say. The protest committee can usually detect if a witness has been “coached” and that may not be helpful to your case.

I have a good witness but they cannot attend the hearing. Should I have them write down their evidence and give it to the protest committee?

Yes. But, that witness cannot be “questioned” (63.6(c)) because they are not present therefore the protest committee will probably not accept the written evidence unless the other party agrees.

THE PROTEST HEARING

THE SUMMARY

When I am asked to “conclude” or to “sum up” or to “make my final statement” what is expected of me?

All the above words mean the same. This is the opportunity given at the end of the hearing for your final words. You do not have to say anything further, it is your choice.

There is no need, and it is not wise, to go over everything again. Be brief, the protest committee may have more protests to hear and some members could get impatient if you take too long.

Your ‘summary’ could have just four parts:

1. Briefly re-state your case.
2. Say why you believe your case has been confirmed during the hearing.
3. Mention the rule(s) that support your case (if you know them).
4. Say what you believe the decision should be.

Here is an example of a summary that has the four parts. Note that it does not repeat the whole case, or the evidence, but gives the protest committee a decision to consider:

1. Members of the protest committee, I was not required to give mark room because we were not overlapped at three boat lengths.
2. This is confirmed because the skipper of the other boat has not been able to bring any clear evidence to support the belief that they had an overlap at three boat lengths. I can understand why they may have thought so but their judgement from back at their steering position could be nowhere near as good as my view sighting across my transom.
3. The mark rounding rule did not require me to give mark room so they should not have tried to round inside me.
4. Therefor my protest should be upheld.”

**During the hearing the other party said some things that were not true.
How do I tell the protest committee?**

At the time, do not, groan, sigh or roll your eyes. This does not impress the protest committee.

You could make some “reference to a mistake” during your summary but it is best to avoid suggesting that the other party may have been dishonest. Explaining why the other party may have been “mistaken” is a better option.

There are examples in the box below and the previous page.

A protest committee may be more likely to accept that a sailor's judgement or view was not good, than it would accept that the sailor's honesty was not good.

During the summary, rather than say “The other skipper was not telling the truth when he said he would have crossed ahead”, it would be better to say “The other skipper clearly misjudged the distance when he said he would have crossed ahead”.

THE PROTEST HEARING REOPENING A HEARING (66)

My hearing was held and I have now found some significant new evidence that may change the decision (66). Can I do anything?

You may request the protest committee to consider reopening a hearing, but your request must be done “no later than 24 hours after being informed of the decision” (66.2).

This cut-off time is much earlier on the final day of a regatta (66.2(a)).

How should I make this request?

Use a protest form or write a respectful letter to the protest committee explaining why there may have been a significant error or what new evidence has become available since the hearing.

The new evidence must be something of real significance.

It is not often that a protest committee will agree to reopen a hearing. They are unlikely to accept evidence as “new” if they feel that the party could have discovered its existence in time to bring it to the initial hearing. Witnesses who could not attend the hearing do not qualify as “new evidence”.

THE PROTEST HEARING

REQUEST FOR REDRESS (62)

The race committee has made an improper action or omission (62.1(a)). Can I protest them?

You cannot protest a race committee but, you can **request redress**. This means that you ask for some adjustment that improves your result if your result has been “made significantly worse” (62.1), “through no fault of her own” because of a race committee improper action or omission.

How do I request redress (62.2)?

Use a hearing form. State on the form that you are seeking redress and “identify the reason for making it” (62.2).

The protest committee will call a hearing that will be conducted in a manner similar to a protest hearing. You can bring witnesses in the same way.

How should I convince the protest committee that I deserve some redress?

You must first show that your result in the race or series has suffered or been “made significantly worse” (62.1).

You must show that the disadvantage that you have suffered was “through no fault of her own” (62.1).

A protest committee cannot give redress if any part of the fault is that of the competitor (62.1). Even if the disadvantage suffered by the competitor is only 10% his own fault, redress will usually not be given.

What sort of race committee errors (62.1(a)) might result in me achieving redress?

Some examples may be:

1. Signal errors:

A flag or sound signal error ashore or on a race committee boat that resulted in you or you and some other boats (not all) being disadvantaged.

2. Sailing Instruction error:
An SI clause giving an incorrect description or position of a buoy or some other object that resulted in you or you and some other boats (not all) being misled.
3. Change of Course error:
A signal that is given to some boats (not all) or given correctly to some boats but incorrectly to you.
4. Identification error:
Identifying you as OCS when it was another boat with a similar number.
5. Scoring error:
Failing to record your correct finishing position.

1 was scored OCS but I do not believe I was over the line. Can I request redress?

Yes, but few requests are successful.

The starting line judges are in the best position to judge a line and a protest committee cannot replace the judgement of those officials with its own judgement or with the judgement of the competitor.

In order to have an OCS overturned a competitor would need to bring strong evidence (witnesses) to the protest committee room and satisfy the protest committee that the starting line judges had made an error of identification and recorded the wrong boat.

I have just seen the results sheet and I believe it contains an error. I wish to request redress but the protest time limit has ended (62.2).

What should I do?

Continue with a request for redress. The racing PTL does not always apply to a redress. For something like this you have two hours from the time of the “relevant incident” therefore you could lodge your request up to two hours from the posting of the results sheet.

If a results sheet was posted within a reasonable time after racing but the competitor did not read it within the two hours (such as the next morning) it may be too late to request redress because of a scoring error.

Scoring Enquiry forms are usually available, read the SI’s for specific instructions. Consider that the lodging of the enquiry should be lodged within the PTL (61.3) rules, therefore as soon as you are aware.

If you are not happy with the response to the enquiry, the PTL starts again when you are advised.

Some boats did not sail the correct course (28) but they have been recorded as finishers. Should I protest the race committee?

No (you mean “request redress” not “protest the race committee”). It is your responsibility to protest boats that do not sail the correct course (61.1(a)(3)).

A race committee acts correctly by recording boats in order as they cross the finishing line. A race committee has done nothing improper if some boats do not round the correct marks or do not sail the correct number of laps. If a race committee knows something like this has occurred, it can “protest” the offending boats but it is still required to record and then post the boats as finishers. NSC (did not sail the course) is a new scoring abbreviation (2021), this would be applicable if the race committee saw the boat not sail the course.

If I “suffer” because a boat in the race broke a rule can I request redress?

There can be two situations:

1. If a boat breaks a rule and causes you to capsizes or to go the wrong side of a mark or something similar that effects your finishing place, but causes you no physical damage: **no redress**.
2. If a boat breaks a rule and causes you physical damage (62.1(b)) **and** the physical damage affects your finishing place (62.1): **redress maybe possible**.

What is meant by “physical damage” when considering redress?

Damage to the boat or any of its equipment or injury to someone on board. A protest committee would need some evidence of this and would need to be satisfied that it actually made your result worse.

Is a capsizes not physical damage? No. Nor is going aground or being forced to tack or broach. All these may cause you to lose places but the rules do not permit them to be considered “physical” damage.

Further: A boat could suffer extensive major structural damage in a collision, but if that damage did not affect the boat's speed sufficiently for it to lose places (62.1) it would not be eligible for redress.

How should I claim redress when there is physical damage by another boat breaking a rule (62.1(b))?

You should hail “**protest**” and display your flag at the time of the incident (61.1(a)).

If you intend to request redress, whether the other boat has taken a penalty or not, you must lodge a protest/request for redress form & include that there is damage/injury (61.2 & 62.2).

If the other boat has taken a penalty include this on the form.

During the hearing you should make it clear to the protest committee

1. that there was damage/injury (62.1(b)).
2. that the damage was caused through the other boat breaking a rule (62.1(b)).
3. that the damage did effect your finishing place (62.1).
4. that it was not your fault (62.1).

Can I get redress if a boat that is not racing disadvantages me?

If the other boat was required to keep clear (under International Regulations) (62.1(b)) and it physically damaged your boat - **redress maybe possible**.

If this other boat was required to keep clear but there was no physical damage - **no redress**.

If this other boat was not required to keep clear - **no redress**.

Is it the same if this non-racing boat is part of the race organisation?

This may be different.

If the boat is a race committee boat, or a boat which is part of the organisation such as a protest committee boat, or a boat under the control of the race committee such as a press boat or an official spectator boat, **and** if you are disadvantaged by it (even without physical damage), then you could request redress on the grounds that there was an “omission of the race committee” (62.1(a)) in not properly keeping that boat clear.

Can I get a race thrown out?

A protest committee could abandon a race following a redress hearing involving a race committee error (62.1(a)), but it will abandon only if the error has caused such a mess that the protest committee cannot find some other satisfactory method of resolving the mess.

Can I get redress for giving help to someone?

Yes. Redress will be given to a boat that helps someone in the water (not their own crew) or helps a boat in difficulties (even if that boat is not in the race) (62.1(c)).

APPENDIX T – only applies if the NoR or SI's so state.
ARBITRATION

T1 POST-RACE PENALTIES

(a) Provided that rule 44.1(b) does not apply, a boat that may have broken one or more rules of Part 2 or rule 31 in an incident may take a Post-Race Penalty at any time after the race until the beginning of a protest hearing involving the incident.

(b) A Post-Race Penalty is a **30% Scoring Penalty** calculated as stated in rule 44.3(c). However, rule 44.1(a) applies. (*This means take your onwater penalty!*)

(c) A boat takes a Post-Race Penalty by delivering to the arbitrator or a member of the protest committee a written statement that she accepts the penalty and that identifies the race number and where and when the incident occurred.

T2 ARBITRATION MEETING

An arbitration meeting will be held prior to a protest hearing for each incident **resulting in a protest** by a boat involving one or more rules of Part 2 or rule 31, but only if each *party* is represented by a person who was on board at the time of the incident. No witnesses will be permitted. However, if the arbitrator decides that rule 44.1(b) may apply or that arbitration is not appropriate, the meeting will not be held, and if a meeting is in progress, it will be closed.

T3 ARBITRATOR'S OPINION

Based on the evidence given by the representatives, the arbitrator will offer an opinion as to what the protest committee is likely to decide:

- (a) the *protest* is invalid,
- (b) no boat will be penalized for breaking a rule, or
- (c) one or more boats will be penalized for breaking a rule, identifying the boats and the penalties.

T4 ARBITRATION MEETING OUTCOMES

After the arbitrator offers an opinion,

- (a) a boat may take a Post-Race Penalty, and
- (b) a boat may ask to withdraw her *protest*. The arbitrator may then act on behalf of the protest committee in accordance with rule 63.1 to allow the withdrawal.

Unless all *protests* involving the incident are withdrawn, a protest hearing will be held.

