

## Judicial – Q&A

The following Q&A is intended to provide clarity on questions that may be raised upon review of the Judicial event resumption guidance. **This document has been updated on 25th June 2020 and will continue to be reviewed as new government guidance is available.**

Within the function of the guidance is the overarching application of, hopefully, common sense to provide that as far as possible the risks of transmission of Covid-19 can be mitigated to an acceptable degree.

### **Do these revised requirements apply across the UK and Channel Islands?**

Yes. Although there may be regional differences in the case of restrictions the guidance provided should be adopted as best practice to ensure a necessary harmonization of process and principles.

### **Is there an intention for the altered practices to continue past COVID?**

The practices set out in the guidance are intended to be practical and straightforward in our digital world and we do believe that we should retain these core practices in the future. In this regard we would consider new and amended practices for competitor entries, signing-on, pre-event declarations as to health, conformity of PPE (suits, helmets, HANS etc.) and vehicle conformity with pre-competitive scrutiny limited to declaration and, where mandated, spot checks.

In addition it is suggested that this guidance should also facilitate the preservation of the important judicial function in an environment where there may be fewer officials available who are qualified to undertake the judicial function.

### **Does this guidance apply to all Motorsport UK Permitted Competitions?**

Yes, with the exception of any FIA visiting Championship (for example the British Grand Prix) where FIA guidance, requirements and obligations shall take precedence and thereby avoid any 'conflicts of laws' issues. Where there may be a mixture of Events at a Permitted Meeting – for example a mixture of FIA Championship Events and Motorsport UK Permitted Events, then the organisers are expected to facilitate cooperation in the usual way.

### **Will Motorsport UK be adopting the FIA “COVID-19 Code of Conduct” as detailed in Appendix S of the FIA International Sporting Code?**

Within App. S the FIA has adopted the concept of High and Low Density Areas together with the principle of Profile 1 and 2 Attendees. While much of that Appendix is not of application to the running of our Events, it is however logical to adopt similar principles, *within reason*, in our own concepts.

A High Density Area is for example Event Control [i.e race control and administrative buildings/offices, pit-lane, paddock, scrutineering bays/parc ferme].

Profile 1 Attendees are stakeholder participants for example the Officials and administrative staff necessary for the proper running of the Event, as well as of course competitors and their support personnel as allowed by the venue or otherwise.

The logic to be applied is therefore that in facilitating necessary social distancing, it is pragmatic to limit as far as practicable the intermingling of Profile 1 Attendees from abstract social groupings in different High Density Areas. This gives rise to the requirement for a new approach to the exercise of the judicial function within our Events and in particular to avoid intermingling as far as possible.

### **There is no change to the principles of judicial intervention or engagement at Events?**

Correct. The reporting of breaches of regulations to the (judicial) clerk of the course or in relevant limited circumstances, as now, to the Stewards of the Meeting; where applicable or necessary, the conduct of a judicial hearing in accordance with the principles of a fair hearing, any appeals that can / should be heard by the Stewards of the Meeting and otherwise the pass-through to the National Court and / or to Motorsport UK where additional disciplinary action is to be considered is unchanged.

### **Is there any change to the current timescale for the lodging of Protests or of Appeals against Decisions of Officials of the Meeting?**

No. The current powers vested to extend time deadlines are retained along with regulatory principle that by considering any matter judicially where a time deadline exists, you are deemed to have extended the deadline and so could not then make a decision based on rejection based on breach of that same deadline. For example if a relevant competitor is 'trapped' in a physical parc ferme during the Protest period as opposed to parc ferme in the competitors paddock, then flexibility on time for lodging is advised (for example 30 minutes after release from physical parc ferme)

Importantly, the concept of a 'fair hearing' is simple –

- consideration of all the available evidence by an unbiased tribunal
- the opportunity for the respondent to challenge the evidence brought against and
- the opportunity to call evidence in defence and
- otherwise to state their own case

and so adaptable entirely to the 'new order'. The civil and criminal courts have clearly demonstrated this with the relevant parties being required to attend a digital meeting in the form of a hearing whether by Zoom, Teams or other similar facility. It requires management by the 'Judge' to control the proceedings but that is no different to any other live Hearing

### **Is there any consideration or changes to the gathering of evidence and/or reports?**

As far as practicable, evidence of allegations of breach of regulations should be obtained and retained and disclosed digitally / electronically. This has been in part covered in other guidance published for example regarding the delivery of observers' or other marshals' reports to the clerk of the course. This includes making available any moving image evidence – for example by the creation of a dedicated Event [as opposed to Meeting] Dropbox by the Organiser, with the contact details notified to Competitors. All imagery considered must be retained for judicial purposes in accordance with the General Regulations.

### **Are there any specific requirements for notifications in respect of Non-Appealable Penalties?**

No this is unchanged. The Competitor must still be notified as soon as practicable. Where there is an Entrant who is not the driver Competitor, then this should be delivered within a short time after the penalty is imposed so as to ensure notice to the affected driver by means of communication from pit wall to car in the relevant permitted manner. Otherwise flag signal notification will remain as currently combined with written notification after the chequered flag. However, in the latter cases because results henceforth will be digital only, competitors subject of such a penalty must be notified by specific communication whether before or after the chequered flag to a provided mobile telephone number by sms or by e mail to provided address

### **Will Motorsport UK be amending the standard judicial documents?**

Neither Protests nor Appeals are required to be submitted on a Motorsport UK form. Motorsport UK standard Protest and Appeal forms are provided as a matter of convenience only. However, such pro-formas as fillable pdf will be downloadable from the Motorsport UK [Getting Started webpage](#) and there is no reason why the use of them should not be encouraged in SRs or Final Instructions. The following documents will be accessible no later than Monday 29<sup>th</sup> June 2020.

1. Observers' / Official's Incident Report
2. Notice to Competitor of intended judicial action listing the alleged breach and evidence / witnesses in support [in preparation for a hearing]
3. Technical Non-Compliance Report
4. Notice of Judicial Decision following a Hearing
5. Notice of Appeal to the Stewards of the Meeting against a Decision of an Official of the Meeting [non-technical]
6. Notice of Appeal against a Decision of an Official of the Meeting [Technical]
7. Notice of Appeal against a Decision of the Stewards of the Meeting to the National Court
8. Notice of Protest
9. New Stewards' Report form
10. Covid-19 Risk Assessment for completion by the Event Covid-19 Officer
11. Covid-19 Officer Report Form to be completed and submitted electronically to all of:  
Senior Clerk of the Course, Motorsport UK Steward (where appointed) and Motorsport UK.

### **How are we expected to collect the payment of Appeal or Protest Fees or Event Fines?**

There is no need for officials to collect monies or other payments under the current requirements. The amended standard documentation will incorporate a Regulatory Undertaking to pay the fees direct to Motorsport UK.

Therefore provided that any Appeal or Protest form is completed and submitted, or where the competitor has submitted their own form (with or without undertaking) there is no need to collect the associated fees.

### **Why must Organisers set out the judicial process within their SR's or Final Instructions**

Motorsport UK recommends, as far as practicable, that all judicial engagement with Competitors should be digital/electronic. You will need to explain to your competitors how you will be operating the judicial process and hearings

### **We may not have adequate coverage for digital/electronic judicial hearings?**

Where digital / electronic is not possible, then any judicial Hearing space must be arranged on socially distanced principles respecting government advice for example, screens, use of masks, requisite distance apart, sanitisation of all surfaces after each hearing and disposal of cleaning equipment [etc] in accordance with Government guidance. These requirements apply to the judicial officials, competitor(s) and any witnesses or other officials present.

For these purposes and where possible, Organisers should ensure that the venue owner contractually provides such a prepared Hearing facility including digital media replay equipment with frame by frame capability to be handed over to the Organiser. Preferably this would be distanced from Event control / administration at a dedicated location notified to competitors in SRs or Final Instructions. It is reasonably expected that post-hearing sanitising would be the responsibility of the Organiser.

The basic principles where digital/electronic hearings are not possible is that any room should be well ventilated, contact areas must be sanitised before and after use and consideration of the need for face coverings. All these details must again be included within your SR's or FI's to advise your competitors of what is to be expected.

### **Will Motorsport UK be issuing any specific guidance to Competitors?**

Yes. Motorsport UK will be issuing guidance on or about 29<sup>th</sup> June 2020.

### **What if we are unable to make contact with the Competitor during the Event?**

Organisers must be in possession of accessible means of contact with all Competitors, this would be such as preferably to enable communication by 'Zoom' or 'Teams' type facility for the hearing (if possible) and / or advanced notice [etc] of the hearing by telephone. It is the obligation of the competitor to be so accessible while at the Event and this obligation should be made clear in Final Instructions for the Event with your description of how the judicial process will work.

## Is there any change to the judicial hearing process?

For non-Protest Judicial action please adopt the following procedure:

- Deliver electronically to competitor Notice of Intended Judicial action with evidence to be called and set time (and place) for Hearing.
- Notify witnesses in the same way of the time (and place) for Hearing.
- Conduct Hearing 'as usual' and deliver oral Decision, noting and stating the official time for the purposes of any Appeal etc. Remind of right of Appeal where applicable, subject always to conformity with timescales and process.
- Deliver Judicial Decision Notice electronically and collate via Secretary of Meeting for Stewards Report (where applicable).
- For all Appeals to the Stewards of the Meeting, follow the same process as for the Clerk's Hearing. It may be appropriate for the Secretary of the Meeting to convene the Hearing (etc) and hand over to the Stewards.
- For technical matters only, the Technical Non-Compliance form must accompany the Notice of Intended Judicial Action and the Clerk must obtain any representations from the Competitor before confirming any judicial action. Then, deliver the Judicial Decision Notice reminding the Competitor of the Right to Appeal to the National Court (unless it is an Appeal only against penalty when it can be passed to the Stewards).

The key in all of this is to adopt a fair practice, remembering that where you deal with a matter any time deadline is deemed complied with. Adopting a fair practice will as often as not defuse any desire to appeal.

It is suggested that, with regard to driving standards matters the following approach may be of assistance:

1. Has there been a Protest?
2. If not, do I really need to take formal action?
3. If I do, will an alleged transgression under Q.14 [or other applicable Regulation] 'do the job'?
4. Do I *really* need to invoke C.1.1.5?
5. Never react to a 'whinge', only to a formal written Protest or to a report received from your own officials.

## What if I have further queries?

Should you have further queries, please contact [Restart@MotorsportUK.org](mailto:Restart@MotorsportUK.org)