

The British Horseracing Authority and  
Integrity in Horseracing.

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An Independent Review.

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## Glossary

ACPO	Association of Chief Police Officers of England, Wales & Northern Ireland
ACPOS	Association of Chief Police Officers of Scotland
BHA	British Horseracing Authority
CoLP	City of London Police
HRA	Horseracing Regulatory Authority (precursor of BHA)
IS&LD	Integrity Services and Licensing Department
JAGB	Jockeys Association of Great Britain (now the Professional Jockeys Association)
MoU	Memorandum of Understanding
NIM	National Intelligence Model
SOM	Security Operations Manager
SOS	Security Operations Supervisor
SSO	Stable Security Officer
T&CG	Tasking and Co-ordinating Group
WRSO	Weighing Room Security Officer

# 1 EXECUTIVE SUMMARY

1.1 The British Horseracing Authority (BHA) is the independent combined governing and regulatory body for horseracing. Ensuring the integrity of the sport is at the heart of what it does. The BHA sets out its responsibility as being to:

- provide the most compelling and attractive racing in the world
- be seen as a world leader in raceday regulation
- ensure the highest standards for the sport and participants, on and away from the racecourse
- promote the best for the race horse

and

- represent and promote the sport and the industry.

1.2 The BHA was established in July 2007 by merging the Horseracing Regulatory Authority, which was responsible for regulating and policing the conduct of racing, with the British Horseracing Board, which was the governing authority for horseracing in Britain, responsible for promoting the interests of racing. Previously the Jockey Club also had responsibility for regulation and discipline in horseracing but it no longer has any regulatory function.

1.3 In late 2002 a review of race security and intelligence was commissioned jointly by the Jockey Club and The British Horseracing Board against a background of negative publicity arising from a number of allegations of race fixing. It reported in 2003 and its implementation has had a significant impact on the quality of intelligence gathering and the standard of investigation in horseracing.

1.4 In October 2007 Dame Elizabeth Neville QPM was commissioned by the BHA to conduct this Review. The initial terms of reference set were:

1. To carry out a Post Implementation Review of the Recommendations of the 2003 Security Review with a view to assessing how such measures have protected the integrity of racing.
2. Identify areas for development to improve the British Horseracing Authority's role in protecting the integrity of racing.

3. Review relevant Rules of Racing and penalties connected with integrity issues.

Following the collapse of the trial of Messrs Rodgers, Fallon, Williams and Lynch in December 2007 the Terms of Reference were expanded to include:

4. Assess the role and procedures that racing and sports governing bodies should adopt when dealing with matters that may involve breaches of the criminal law as well as its own rules in relation to corruption connected with betting.
5. To consider all of the above in the light of the proceedings against Messrs Rodgers, Fallon, Williams and Lynch (The City of London proceedings).

Dame Elizabeth has been supported throughout the Review by Michael Page QPM, and Matthew Burbeck and has benefited from the legal advice of Mark Gay and Catherine Beloff of DLA Piper.

- 1.5 Whilst the Review Team's thanks are due to all who have been involved in this Review for their openness and willingness to contribute, a special debt of gratitude is owed to Fiona Carlin for her tireless support, research and ability to answer even the most obscure questions speedily and efficiently.

- 1.6 The Review was conducted in three phases,

#### **Phase 1**

This involved a critical analysis of the recommendations made by the 2003 Review, the subsequent action taken in response to both the recommendations and observations made in the Review and an assessment, both qualitative and quantitative, of the impact achieved by their implementation.

#### **Phase 2**

This consisted of a review of the rules governing racing, the conduct of licensed and registered individuals and the penalties for offences of corruption. This included the changes to the conduct of hearings which were implemented on 1<sup>st</sup> January 2008.

#### **Phase 3**

This involved an assessment of the role and procedures that racing and sports governing bodies should adopt when dealing with matters that may involve breaches of the criminal law; as well as their own rules in relation to corruption. Particular consideration has been given to issues connected to betting, the impact of the

creation of the offence of 'cheating' (Section 42 Gambling Act 2005), the impact of the newly formed Gambling Commission and the City of London proceedings.

- 1.7 The Review Team has interviewed in excess of sixty individuals drawn from all aspects of BHA operations, partner agencies and key stakeholders. Visits have been made to a representative selection of racecourses where the opportunity was taken to assess security and regulatory activity in a live operational environment. A literature review of over fifty different documents yielded much valuable background and context which was reinforced by consideration of security provision in other countries and other sports.

### **HRA RESPONSE TO THE 2003 SECURITY REVIEW**

- 1.8 There was overwhelming evidence from those interviewed that the 2003 Review was seen as a watershed in terms of securing the support of the majority of those involved in horseracing in focusing on real threats to the integrity and reputation of the sport. Whilst opinion was split on the extent of the problem, all agreed that preservation of integrity was vital to the future prospects of the sport.
- 1.9 The 2003 Review was seminal and its implementation has had a great impact on the quality of intelligence gathering and investigation in horseracing, making the Security Department (now re-named Integrity Services and Licensing Department (IS&LD)) the recognized leader in the field of integrity in sport. The message that the BHA is working effectively to protect the integrity of horseracing has been widely disseminated and understood. There is a strong corporate feeling within the BHA that all have a role to play. This extends to outside bodies.
- 1.10 The 2003 Review made a total of 36 recommendations, 35 of which were accepted by the HRA. The recommendations were broadly centred on establishing integrity as a strategic imperative, establishing an effective intelligence gathering and analysis framework, improvements to the investigative capability and an increased emphasis on partnership arrangements with other sporting and gambling authorities.
- 1.11 The bulk of the recommendations of the 2003 have been fully implemented. A comprehensive analysis of the action taken in respect of each is given at Appendix B and many of the issues are further developed in the main report. Where recommendations have not been implemented, by and large, the impact has not

been significant, or there were good reasons for not doing so. These reasons were principally related to practicality or the fact that changes in structures or systems have superseded the original intention of the recommendation. In some cases the intended benefits are yet to be realised and there have been some delays caused by difficulties in recruitment and resourcing. The Review Team has highlighted these issues and, where appropriate, has made further recommendations.

## **ASSESSMENT OF THE ROLE OF THE INTEGRITY SERVICES AND LICENSING DEPARTMENT (IS&LD) IN PROTECTING THE INTEGRITY OF RACING**

- 1.12 Viewed in context, the focus of the 2003 Review was framed by the threat of corrupt practice amongst licensed and registered individuals within the industry connected with betting (principally the advent of betting exchanges and the ability to lay horses to lose). It was also responding to stinging criticisms of the industry's willingness and ability to put its house in order. It identified five main threats to horseracing's integrity. Its main thrust, however, was to establish a capacity to confront the issues and root out corrupt practice. The Review Team is in no doubt that the restructured Integrity, Services and Licensing Department (IS&LD), working to a strategy of deterrence through certainty of detection and prevention through education on acceptable standards of behaviour, has met its principal aims. Not only has the handling of intelligence and investigations been professionalized, increasing both the volume of cases and the quality of their investigation, but the reputation of the department internally to the BHA and externally has been much enhanced. The IS&LD was described to the Review team by a number of agencies as 'a model for the effective investigation of corruption in sport'. The sport's reputation and standing has benefited considerably from this change and the investment behind it.
- 1.13 That is not to say that there are not areas in which improvement can be achieved. There is still a need to improve organizational understanding of the intelligence function and encourage people to contribute to it. This would be aided by greater feedback from the intelligence function to contributors. Internally there are still cultural barriers to be overcome, particularly in relation to the SSOs and WRSOs and the overall cohesion of the BHA presence on racedays. The Review Team has recommended that the SSO and WRSO roles be brought closer together, and that the WRSO should be responsible for raceday integrity and intelligence and also be in charge of the SSOs to ensure better briefing and a better flow of intelligence. Proactive intelligence gathering needs to be enhanced.

- 1.14 The Review Team examined a number of investigation files which indicated that investigations are conducted to a high standard. Areas for improvement have been identified. There are issues in respect of the interface between the Legal Department and the practices of the investigation team which points to a need for greater integration of the two functions and this is an area that would benefit from attention.
- 1.15 The investigation team is currently below optimal staffing level and there are concerns that pressure of investigative work is limiting their capacity to gather intelligence. Consideration is being given to plugging this gap by appointing a field intelligence officer but the Review Team considers that developing the intelligence flow between existing resources may provide a more efficient and effective solution.
- 1.16 There were some excellent examples of co-operation amongst handicappers, stable inspecting staff and the IS&LD driven largely by tactical requirements. Equally the Review Team witnessed co-operation on racedays between WRSOs, Stewards and members of the Veterinary team, again driven by the need to address problems on the day. There is some concern that these different elements have their own methods of storing intelligence, creating unnecessary risks in relation to intelligence management. Some groups and individuals do not have access to intelligence. Reasons are largely cultural and we have seen evidence of change for the better during the course of our Review, as the BHA is reorganised and reshaped. A number of recommendations are made to help, in particular that the newly appointed Head of Intelligence should undertake a review of intelligence flows with a view to formalising links and processes.
- 1.17 Security for stabling and the weighing rooms at race courses provided by BHA staff, all of whom are committed to their roles if, as noted earlier, lacking in cohesion as an overall presence, is in urgent need of a systems review. SSOs still rely on paper based access control which is inadequate. Despite the SSOs' extensive local knowledge, these would not withstand a determined attempt at breaching security. The BHA is currently looking at technology based solutions for the stable areas. The Review Team, whilst recognizing the cost implications, recommends that the BHA takes the opportunity to consider an integrated solution for **all** restricted areas rather than just the stable area. CCTV has been an area of concern to the BHA and previously the Jockey Club for some years. The systems examined by the Review Team were basic, poorly sited and in need of upgrade. Neither of these issues will be cheap to remedy and will undoubtedly require risk assessment in order to justify



expenditure. At present however they represent an area of risk to the BHA and the sport.

- 1.18 The IS&LD has a solid record of co-operation within the sporting industry, having seconded staff to assist in setting up the Gambling Commission's intelligence infrastructure and assisted various bodies such as the International Olympic Committee. Formal links with external agencies are well documented and supported by comprehensive memoranda of understanding. There is close co-operation between the IS&LD and Betfair, with information being exchanged on a daily basis. Arrangements with bookmakers are not so well developed. An MOU (Memorandum of Understanding) is being drafted with the Gambling Commission but is currently undergoing detailed discussion around the issue of referral of cases. There is some work to be done to clarify the responsibilities and practical impact of the provisions of the Gambling Act which, following its experience with the City of London proceedings, the BHA is naturally anxious to resolve. The Review Team has been in discussion with the Gambling Commission. Its activities will be tightly focussed on wrongdoing in relation to gambling at the serious end of the spectrum and will be driven by public interest considerations. In most cases dealt with by the BHA, it is unlikely to be able to assist.
- 1.19 The IS&LD has extended its activities from intelligence gathering and investigation, into prevention and deterrence. It has embarked on an excellent education programme on 'Inside Information', designed to protect jockeys and others from the temptations of corruption. This programme is in its early days and we have suggested that a more co-ordinated and planned approach to prevention and deterrence would be beneficial. In looking at how this programme is delivered on training courses for stable staff and jockeys, we have identified a need to review and professionalize training for licensed individuals. Race Straight, is a recently launched whistle blowing initiative which now needs to be promoted further and placed on the BHA website to increase awareness of its existence.
- 1.20 Whilst a great deal has been achieved, at considerably increased cost, it has to be recognized that five years have passed since the original Review, the governance framework for horseracing has been revised and the regulatory environment changed by the Gambling Act 2005 and the establishment of the Gambling Commission. In a sense the 2003 Review, by default, set an integrity strategy for horseracing focused on the threat posed by corrupt practice. As the BHA develops its own strategic

intentions this Review Team believes it is time to assess whether the strategic direction should now be broadened to the areas already identified in the 2003 Review

- 1.21 The element missing from the National Intelligence Model, as applied to the BHA, is that of the organizational risk assessment which balances organizational and operational demands. Conducting such a risk assessment would, as it did in the Security Review in 2003, reveal wider threats related to criminal activity including terrorism, animal rights extremism, and money laundering, use of unidentified techniques or drugs to enhance or depress equine performance, increasing use of information technology to aid betting and suppress activity counter to equine welfare.
- 1.22 The strategic positioning of the intelligence function is, in the view of the Review Team, critical. Widening its scope would secure the engagement of all elements of the BHA.

## **REGULATION, LICENSING AND THE DISCIPLINARY PROCESS**

- 1.23 The BHA has a very extensive and comprehensive set of rules, orders, codes of conduct and instructions which are contained in the 'Orders and Rules of Racing'. The Horseracing Authority and the British Horseracing Board each had their own rules, orders and instructions which have been amalgamated. The result of decades of amendment is a very large document which contains little clarity as to the distinction between the classifications of rules, orders and instructions. They appear to have evolved in an attempt to deal with every situation that has arisen and are unnecessarily complicated as a result. The new board of the BHA, having recognized this at its start last year, has established a fundamental review of the Rules and appointed a consultant with the brief to write them in plainer language and set them out in a more logical manner to enhance user friendliness.
- 1.24 The Review Team has taken into account views on how the rules for the BHA should be formulated. We are of the view that, ideally, rules should be based on a set of underpinning principles. The rules themselves should not be too detailed in order to allow them to be applied more flexibly. The recommended model would be to have a set of principles supported by codes of conduct with rules which sit under them. A breach of a principle or a code of conduct can lead to a liability to disciplinary sanction, even if there is no specific rule. This gives flexibility and means that it is not necessary to try to cater for every eventuality in the rules.

- 1.25 A large section of the Orders and Rules relates to employment conditions. We believe that current employment legislation may diminish the relevance of its inclusion and suggest that the BHA take legal advice on the parts of the Rules and Orders relating to employment. We believe that most of it should be removed from 'Rules and Orders'. We also believe that the principle of being a good employer should be a condition of a trainer's license rather than part of the regulatory framework.
- 1.26 We further suggest that the rules for licensed and regulated persons be restricted to those which are relevant to the sport of horseracing and not to wider industry issues. The BHA should consider whether there are other elements of the existing rules which are either superfluous or more properly licensing conditions or conditions of registration.
- 1.27 Our overall view is that the whole approach to regulation should be considerably streamlined and simplified. The underlying principles should be articulated, together with codes of conduct. The rules should flow from these. The procedures for horseracing should be gathered into a separate body of documentation. There may also be a place for guidance which should be distinct from rules and procedures. Adherence to guidance may be a relevant consideration either for discipline or licensing and registration.
- 1.28 An issue that requires a strengthening of the rules is the acquisition of telephone and other data. It is a source of constant delay and frustration in the investigative process and, given the investigation of alleged corruption inevitably involves those outside the regulated community, relies on their co-operation if costly court procedures are to be avoided.
- 1.29 The best way to obtain telephone records would be through the powers under the Regulation of Investigative Powers Act 2000 (RIPA). Section 22 may be used by a designated person from a body authorized under the Act for the purpose of preventing or detecting crime (or for other purposes not relevant to the BHA) to obtain communications data, which includes telephone records, from telecommunications operators.
- 1.30 The BHA is not a body authorized under the Act, but the newly formed Gambling Commission is such a body. The Gambling Commission has indicated that it would consider making an application if it considered it appropriate and proportionate. It would have to relate to an allegation of crime. They would envisage a case

conference taking place and that in all likelihood, it would be in the context of a joint investigation.

- 1.31 It is recommended that the role of Licensing as the gateway to the sport be strengthened and that clear procedures for the exchange of information and intelligence between Regulation, the Intelligence Unit and the Licensing Unit be established. The recent inclusion of the licensing function within the IS&LD will greatly aid this process. Although the licence provider need only afford limited rights to an initial applicant for a licence, once the renewal or forfeiture of licence is concerned, all of the rules of natural justice are fully engaged and the matter must be dealt with on a fully disciplinary basis. Therefore, the BHA must ensure that it has evidence based procedures in place to deal with forfeiture or failure to renew and robust processes which will stand up to scrutiny.
- 1.32 The disciplinary process forms part of the natural continuum of the BHA's focus on ensuring integrity in horseracing. This continuum starts with intelligence and investigation and ends in a disciplinary process which may lead to the imposition of sanctions upon participants in racing who breach the Rules. The investigative, licensing, prosecution and judicial functions should be kept discrete (specifically, the investigative and intelligence handling roles should be kept separate from decision making on grant and renewal of licences and institution of disciplinary proceedings). There is blurring of these functions and people undertaking investigative and intelligence functions are involved in decision making about prosecution. There is also a need for improved processes for decision making on prosecution and we have proposed the appointment of a Disciplinary Officer who should be a lawyer. We have also made recommendations for quicker and improved management of cases which are to be prosecuted.

## **THE WAY FORWARD**

- 1.33 Confidence within the BHA has been shaken by the experience of what the media has called 'the Fallon trial', referred to in this report as the 'City of London proceedings'. There is an understandable desire to establish clear rules around how the BHA should deal with cases that could have a criminal dimension. The BHA should exercise its judgment in deciding whether to hand over its evidence to the competent authority which will usually be the Gambling Commission, and Section 42 of the Gambling Act 2005 (cheating at gambling) will usually be the relevant offence.

The Commission has pointed out that it is neither funded nor resourced to support protracted enquiries and would make a public interest decision on how to proceed. If it took on a case, it would expect to work in partnership with the BHA and, where relevant, the police.

- 1.34 The City of London Police has indicated that it is willing to act as a single point of contact for the BHA, subject to the development of an MOU. It does not rule out investigating future cases which are beyond the powers of the BHA, given its national responsibility for Economic Crime and maintaining the National Fraud Reporting Centre. It has said that it would want to take advantage of the expertise and knowledge of the BHA and work with it as a regulatory body, rather than treat it as a complainant and potential witness as was done in the past. The Association of Chief Police Officers of England, Wales and Northern Ireland has indicated that it supports the role of the City of London Police in this respect.
- 1.35 The BHA will have to enter into negotiations with both the City of London Police and the Gambling Commission to identify the way forward when it suspects criminal activity by non regulated individuals. The Review Team has made some recommendations on how the BHA should approach this complex issue involving two different bodies.
- 1.36 The Review Team has considered the position of the BHA over bringing disciplinary proceedings when it has referred a possible criminal case either to the Gambling Commission or the police. There is no legal principle that prevents the BHA from investigating, or commencing or continuing disciplinary proceedings against a person subject to the Orders and Rules of Racing, notwithstanding that there is a risk that criminal or civil proceedings may be brought, or indeed in circumstances where they have already been commenced. In most cases there will be no impediment to the continuation of the BHA investigation and disciplinary process, but there are certain considerations in deciding whether to continue with disciplinary proceedings which are set out in Section 8.
- 1.37 The Review Team recommends that the BHA adopts a strategic position of tackling integrity and cheating issues by dealing with its own regulated community. If serious matters emerge which are beyond their own powers to deal with or relate to other individuals, then the BHA should not investigate more widely but refer the matter on. It will be a matter for the relevant body, police or Gambling Commission, to decide on its response. If they engage, they are likely to look to work in partnership with the BHA. The terms of reference for such investigations must be carefully drafted to

ensure that the BHA element is focussed on areas subject to its regulation, and where it has expertise and powers.

- 1.38 This approach will militate against the BHA taking on a pan sport role of intelligence gathering on gambling, although it would not preclude it taking on a contracted role of intelligence or betting analysis for specific sports.
- 1.39 The Review Group concludes that the BHA in general and the IS&LD in particular have, through their response to the 2003 Review, established processes and structures that have been successful in countering the threat of corruption. We believe that these measures are capable of enhancement to cover other potential threats to the integrity of racing through the emerging BHA Strategy.
- 1.40 The IS&LD recognizes the need for continual evolution and development. The main body of the report considers what further improvements might be made in the context of recent developments such as the advent of the Gambling Commission and recent events such as the trial of Rodgers et al. The BHA's external relationships have suffered from criticisms in the wake of the collapse of the trial. Work now needs to be done to reconstruct those relationships, building on the IS&LD's otherwise sound foundations.
- 1.41 To assist in this the Review Team has made 16 recommendations, a summary of which is provided at Section 2.

## **2 SUMMARY OF RECOMMENDATIONS**

From the outset the Review Team determined that the process should be as dynamic as possible and, as noted elsewhere in this report, received the enthusiastic engagement of staff across the BHA but notably those within IS&LD. Accordingly work is already underway in respect of aspects of a number of these recommendations. The recommendations remain in full, however, to provide a comprehensive reference point for overall development

**R 1 The Review Team recommends that the IS&LD reviews its strategy to ensure that it derives from the BHA Strategy which is currently being developed, taking into account the recommendations of this Review. The Review Team recommends that the BHA's strategic position on protecting the integrity of horseracing militates against it taking on a pan sport role. This does not preclude consideration of offering contracted out services to other sports which should be restricted to betting analysis, and possibly inputting and analysis of intelligence product. IS&LD should not consider taking on the intelligence gathering function for any other sport.**

**R 2 The Review Team recommends that an analysis of intelligence flow be undertaken by the newly appointed Head of Intelligence with a view to ensuring that intelligence links are maintained with all departments of the BHA. Within this, consideration should be given to the best way of enhancing the proactive field intelligence gathering capacity and ensuring that all intelligence within the BHA is stored on a common database. To enhance the performance of the raceday team, a nominated individual, probably the Weighing Room Security Officer (WRSO) should take responsibility on behalf of the BHA for intelligence and integrity at all racing events. All security staff must be briefed at the commencement of each race meeting, such briefings to include any intelligence alerts and overall security arrangements. Similarly, intelligence debriefs should be held at the end of each meeting.**

**R 3** In support of improved intelligence function and investigation, the following recommendations are made:

- There is greater scope for the Legal Department and Investigators to agree an investigation plan early on in the process and for the Legal Department to take a more active part in case management. We recommend the drafting of a protocol between the two departments setting out the role of each in the prosecution process, the levels of service each can expect from the other and joint case management protocols.
- The approach to case debriefs should be reviewed to ensure that learning is relayed to all interested parties and incorporated into future investigations.
- The IS&LD should review the procedures in place to ensure the integrity of all evidence.
- The IS&LD should review the issue of all equipment such as digital cameras and adopt a consistent documented approach to their use. Guidance should be given to ensure they are not used inappropriately or intrusively.
- There should be a specified minimum induction programme for new IS&LD staff designed to ensure familiarity with all other aspects of the BHA operation. Similarly other departments should arrange familiarisation with IS&LD functions and processes as part of the standard induction of their staff at all levels.

**R 4** The Review Team recommends that the BHA should deliver its aim of preserving the integrity of horseracing by focussing its efforts on those who fall within its regulatory ambit. When it becomes aware of wrongdoing by those outside of its regulatory remit it should report such wrongdoing to the appropriate body, usually the Gambling Commission and/or the City of London police. If a joint investigation is agreed, the terms of reference must be carefully drafted to ensure that the BHA element is focussed on areas subject to its regulation, where it has expertise and powers and that its contribution is not disproportionate. The BHA should develop formal arrangements in the



form of MOUs with the City of London Police and the Gambling Commission, and consider the interrelationship of the two bodies. The BHA should also review existing MOUs to ensure they cover the appropriate range of organizations, are up to date in the light of the Gambling Act 2005 and the existence of the Gambling Commission.

- R 5** The Review Team recommends that the whole approach to regulation should be reviewed and considerably streamlined and simplified. The underpinning principles should be articulated, together with codes of conduct. The rules should flow from these. The rules for licensed and regulated persons should be restricted to those which are relevant to horseracing. The BHA should consider what elements of the existing rules are either superfluous or more properly licensing conditions or conditions of registration. The procedures for horseracing should be gathered into a separate body of documentation. There may also be a place for guidance which should be distinct from rules and procedures. Adherence to guidance may be a relevant consideration either for discipline or licensing and registration.
- R 6** The Review Team recommends a number of changes to Rule 241 to assist investigations and to ease the difficulty of obtaining telephone records. We also recommend that jockeys are required to register their mobile telephone details with the BHA and keep them up to date.
- R 7** The Review Team recommends that the role of Licensing as the gateway to the sport be strengthened and that procedures for the exchange of information and intelligence between Regulation, the Intelligence Unit and the Licensing Unit be reviewed. Full checks must be carried out before the grant or renewal of any licence or registration.

It is also recommended that two changes be made to the Orders and Rules of Racing. First, we would propose that the second sentence of Part 1(a)(v)(a), which treats renewals of licences as if they were initial applications, be deleted as it does not reflect the current law. Indeed it is in direct conflict with it.

Secondly, we would propose a new paragraph (i) at Part 22, Rule 220 of the Orders and Rules of Racing. This would create an obligation on all persons who participate in racing to be fit and proper persons to do so at all times.<sup>1</sup> Consequently, if the BHA were to find that by virtue of past or present conduct or associations that a person was not such a person, this would also constitute a breach of the Rules and Orders of Racing and could be dealt with as a disciplinary matter.

In the longer term, if the Orders and Rules of Racing are revised as we have suggested, the obligation to be a fit and proper person might be more properly enshrined in the codes of conduct. A breach of the codes would be a disciplinary breach, whether or not there was any breach of a rule.

**R 8 The Review Team recommends:**

- that the investigative, licensing, prosecution and judicial functions be kept discrete (specifically, that the investigative and intelligence handling roles be kept separate from decision making on grant and renewal of licences and institution of disciplinary proceedings);
- improved processes for decision making on prosecution and for managing the disciplinary process, with the appointment of a Disciplinary Officer who should be a lawyer;
- quicker and improved management of cases which are to be prosecuted;
- that the Disciplinary Procedures set out in Appendix S of the Orders and Rules of Racing be amended to reflect the revised processes for case management.

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<sup>1</sup> Our suggested wording would read as follows:

"(i) All persons involved in racing shall be fit and proper persons to do so."

**R 9** The Review Team considers that the BHA should investigate and prosecute alleged breaches of the Rules and Orders of Racing notwithstanding that this conduct may amount to a criminal offence, subject to the exceptions set out below. The only circumstances in which disciplinary matters which are under investigation by the BHA should be remitted to the police or the Gambling Commission for consideration for criminal investigation are:

- where the disciplinary powers of the BHA are so inadequate in an individual case that the evidence necessary to prove the charge cannot be obtained or the penalty would be ineffective;
- where the conduct disclosed to the BHA concerns substantial non-racing or non-betting matters of a serious nature;<sup>2</sup>
- where a disciplinary panel, appeal board or the Board of the BHA recommends such a step at the conclusion of disciplinary proceedings.

**R 10** The Review Team recommends that the IS&LD develops a prevention and deterrence strategy and plan.

Following from this, we recommend that the IS&LD establishes what remains to be actioned from the Review of Inside Information and draws up an implementation plan.

A plan should also be drawn up to convey the Inside Information message to the whole regulated community and also to deliver it at the point of entry. This should include consideration of translation of some of the material into commonly spoken foreign languages.

Improving relationships with other bodies can contribute to the effective dissemination of the Inside Information message. We recommend that the BHA considers how its relationship with the National Trainers' Federation might be enhanced. The same applies to the National Association of Stable Staff.

The plan should include promoting awareness of the existence of Race Straight as widely as possible.

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<sup>2</sup> E.g. threats of violence, intimidation or blackmail

**R 11** The Review Team has considered training in the context of integrity, but this has led us to make a general recommendation about training for the regulated community. We recommend that the BHA reviews its approach to training, to ensure that it matches the BHA strategic aims and to professionalize its delivery. Oversight and quality and content control should rest with the Head of Industry Recruitment and Training who should act in consultation with the relevant departments.

**R 12** The Review Team's primary recommendation for the SSO and WRSO roles is that the two should be brought closer together, and that the WRSO should be responsible for raceday intelligence and integrity and be in charge of the SSOs. This will ensure better briefing and a better flow of intelligence. The WRSO would liaise with racetrack staff, brief and debrief all BHA staff, and also racecourse security staff.

We make a number of subsidiary recommendations in relation to the WRSOs and SSOs with a view to improving their efficacy.

- Appropriate training should be given to the WRSOs for their current and any future role.
- The SSOs should have access to the database of licensed and registered persons at all times. They should be encouraged to submit more intelligence, particularly relating to whether people are fit and proper persons to be licensed or registered.
- Owners should be issued with passes and the SSOs should be provided with lists of relevant owners for any given raceday.
- Arm bands should be used at all race meetings pending the introduction of a technological solution, as a means of identifying those authorised to enter secure areas.
- The SSOs uniforms be assessed, any necessary changes made and that they be required to wear them so they look professional, are visible and project the corporate image of the BHA. Consideration should be given to

**the wearing of uniforms to all Integrity Services and Licensing Department staff who appear in public.**

- R 13 The Review Team recommends a review of the CCTV systems for both the Weighing Rooms and the stable areas should be carried out and both systems brought up to an appropriate standard at all locations. This should permit the rapid and remote downloading of data. Recording equipment and tapes should be stored securely.**
- R 14 The Review Team recommends that the BHA retains consultants to recommend the best way to provide an integrated access system for ALL restricted areas. The BHA can then make a policy decision on the way forward before going out to tender for this major piece of work.**
- R 15 The Review Team recommends that the BHA develops a communications strategy encompassing its three audiences: external, the regulated community, and internal to the BHA. This will ensure the delivery of agreed consistent messages. It should include website strategy and content which should be controlled from the Communications Department.**
- R 16 The Review Team recommends that the emphasis on future recruitment concentrates on skills rather than background. Recruitment campaigns should be spread as widely as possible and not restricted to police specialist publications.**

### **3 INTRODUCTION**

3.1 The British Horseracing Authority (BHA) is the independent combined governing and regulatory body for horseracing which sees that ensuring the integrity of the sport is at the heart of what it does. As horseracing's governing and regulatory body, the BHA sets out its responsibility as being to:

- provide the most compelling and attractive racing in the world
- be seen as the world leader in raceday regulation
- ensure the highest standards for the sport and participants, on and away from the racecourse
- promote the best for the racehorse

and

- represent and promote the sport and the industry.

3.2 The BHA is a new body and was formed in July 2007 by merging the Horseracing Regulatory Authority, a division of the Jockey Club, which was responsible for regulating and policing the conduct of racing, with the British Horseracing Board, which was the governing authority for horseracing in Britain, responsible for promoting the interests of racing.

3.3 In late 2002 a review of race security and intelligence was commissioned jointly by the Jockey Club and The British Horseracing Board and reported in 2003. The Report, entitled 'Security Review Group Report' made 36 recommendations, 35 of which were accepted. The report advised that there should be a post implementation review of the effectiveness of the measures introduced as a result of its recommendations, after a period of more than 18 months following their implementation.

3.4 The implementation of this report had a great impact on the quality of intelligence gathering and investigation in horseracing, making the Security Department (now

- re-named Integrity Services and Licensing Department (IS&LD)) the recognized leader in its field.
- 3.5 Since the 2003 report, there have been a number of developments which led to the BHA commissioning this independent review of measures to protect the integrity of racing.
  - 3.6 The first of these was the creation of the BHA itself and the sense that it would be appropriate at this early stage to review and evaluate its approach. Carrying out the post implementation review of the 2003 review would be a central part of this work.
  - 3.7 Secondly, the provisions of the Gambling Act 2005 came into force on 1<sup>st</sup> September 2007, and create a different environment for the work of regulatory bodies in related areas. The newly created Gambling Commission has statutory responsibilities and powers. A new offence of cheating at gambling has been created. The impact and potential of these changes need to be assessed.
  - 3.8 Betting exchanges had recently come into being at the time of the 2003 review, but their impact has now become fully felt and understood. Without going into the detail of how they work, on a betting exchange it is possible to bet on a horse to lose as well as to win (laying to lose). Therefore, for a person who wants to cheat, there is now an increased incentive to ensure a horse does not win, whereas previously cheating was more likely to be about trying to ensure that a horse did win. To counter this the information technology systems which operate the exchanges provide the possibility of undertaking sophisticated betting analysis.
  - 3.9 In 2003, the then Jockey Club Security Department identified a problem of cheating. There was evidence that there was a conspiracy with a small number of jockeys being bribed to ensure their horses would not win, so that the horses could be layed to lose on a betting exchange resulting in substantial amounts of money being won dishonestly. The Jockey Club suspended the licences of a number of jockeys as a precautionary measure. Internal procedures were not able to address what was seen as potential criminality arising from the facts of the case, nor were they able to deal effectively with the alleged involvement of

non licensed individuals. The case was therefore referred to the police. This resulted in the prosecution of Miles Rodgers, Philip Sherkle, Shaun Lynch and the jockeys Fergal Lynch, Darren Williams and Kieran Fallon. Because of Fallon's fame, the case attracted huge media interest. At the end of the prosecution case, the defence made an application that there was no case to answer, and the application was accepted by the judge resulting in the acquittal of all defendants. This produced massive media coverage and criticism of the BHA for its part in the case.

- 3.10 The impact of this case on the horseracing world led to the BHA deciding to review how it handles cases involving possible criminality and its interface with the police service.

**This Review has the following terms of reference:**

- To carry out a Post Implementation Review of the Recommendations of the 2003 Security Review with a view to assessing how such measures have protected the integrity of racing
- Identify areas for development to improve the Integrity Services and Licensing Department's role in protecting the integrity of racing.
- Review relevant Rules of Racing and penalties connected with integrity issues.
- Assess the role and procedures that racing and sports governing bodies should adopt when dealing with matters that may involve breaches of the criminal law as well as its own rules in relation to corruption connected with betting.
- To consider all of the above in the light of the proceedings against Messrs Rodgers, Fallon, Williams and Lynch.

A document entitled 'Project Outline, Scope and Methodology' is to be found at Appendix A which sets out in detail how the Review Team undertook this review.

Appendix C gives details of the Review Team. Appendices D and E list the individuals who were seen and the documents which were considered.

- 3.11 The post implementation review referred to in the first term of reference appears at Appendix B. It is presented as a discrete piece of work in which the



implementation of each of the 2003 recommendations is considered in turn. These strictly defined evaluations have in many cases given rise to wider considerations which are dealt with thematically in the main body of the report.

- 3.12 Since this review is about integrity in horseracing, the Review Team tried to get a sense of both the reality and the perception of the amount of corruption and cheating in racing. Universally, people at every level both within and outside the BHA said that where there is betting, there will always be people who want to cheat. However, the actual amount of cheating which goes on is quite small and that the perception is greater than the reality. It was also said that part of the excitement for punters was a sense that the business was not entirely straight, that 'things go on', and there are 'people in the know'.
- 3.13 It was also universally acknowledged that the work of the Integrity Services and Licensing Department (IS&LD) has had a significant impact on cheating and that there had been radical changes since the 2003 Review.
- 3.14 Because the BHA is a new body, it is still in the process of developing its strategic plan. As a part of that, it must define its strategic position on how it intends to deliver its objective to 'ensure the highest standards for the sport and participants, on and away from the racecourse'. It is intended that this review will suggest how the BHA's strategic position on integrity in horseracing should be defined and delivered. From that, the IS&LD will be able to re-evaluate and develop its existing aims and objectives.

## 4 INTELLIGENCE HANDLING AND INVESTIGATION

- 4.1 The Integrity, Security and Licensing Department (IS&LD) can be viewed as having three key components: the Intelligence and Investigative function, the Raceday Team and, added whilst this review was in progress, the Licensing Department. The decision to include the licensing function is one wholeheartedly supported by the Review Team since it is a logical progression in the preventative strand of the strategy aimed at preserving integrity. The ability to screen applicants thoroughly at the application or renewal stages, if effective, should reduce the investigative burden, not to mention risks to the reputation of horseracing, by dealing with integrity issues prior to the issue of any licence.
- 4.2 As the incorporation of the licensing function is still in its formative stages the Review Team has been unable to comment on it in other than general terms.

### STRATEGY AND CONTEXT

- 4.3 The years immediately preceding the 2003 Security Review bear some similarity to the present situation. The arrest of a number of prominent jockeys and a trainer on charges of conspiracy to defraud by doping horses sent shock waves through the racing world. This trial ended at the conclusion of the prosecution case, with a submission that there was no case to answer. This submission was accepted by the trial judge. This was followed by a rash of allegations, arising from a string of other criminal trials, about corrupt practices in horseracing.
- 4.4 These culminated in 2002 with the broadcast of two television programmes, notably Panorama's 'The Corruption of Racing', which, in the words of the 2003 report, 'cast serious aspersions on the integrity and fairness of racing and the resolve of those responsible for regulating racing to deal with the various issues involved.'
- 4.5 It is not surprising, therefore, that the 2003 Security Review was explicit in setting the challenge for what has now become the 'Integrity, Services and Licensing Department' (IS&LD). Setting out a mission statement focussed on 'generating and sustaining public confidence in the integrity of British horseracing', the aims and objectives of the department included, *inter alia*:

- Developing an integrated intelligence and prevention strategy, linked to enforcement which enhances the deterrent effect of the Rules of Racing

and

- Collecting information on licensed and registered persons whose activities may threaten the integrity of racing.

4.6 Given the imperatives set by the 2003 Security Review, the then newly appointed Director of Security (now IS&LD) decided upon a strategy that concentrated initially on tackling the immediate threat, the allegations of corruption within racing. In his own words, the aim was 'to send a clear message that anyone whose activities threatened the integrity of racing would face the certainty of detection and subsequent action'.

4.7 Initial emphasis was, therefore, placed on the investigative role. A number of cases were taken through to disciplinary action, which resulted in significant penalties. It may be worth noting at this point that the Security Review 2003 was explicit in recommending that the IS&LD should concern itself only with the investigation and prosecution of matters of internal discipline. Any issues of a criminal dimension were to be referred to the appropriate police service. The Review Team wishes to point out that IS&LD followed this recommendation to the letter in the case of Rodgers et al. The subsequent events that led to the trial of Miles Rodgers, Kieren Fallon and others and its collapse are considered elsewhere in this report in Section 8.

4.8 Having sent a strong message that the BHA in general and the IS&LD in particular were serious about their mission to protect the integrity of British Horseracing, the strategy has developed a stronger focus on the wider aim of prevention. Notable recent developments in this direction include the energetic education programme on 'Inside Information' conducted by the Security Operations and Project Manager and the incorporation of licensing within the security function. This latter development is defined as 'utilising the intelligence capability at the point of entry into the industry with the aim of preventing later problems through greater scrutiny of those seeking employment or licensed status in horseracing'. It is a development applauded by the Review Team which, if appropriately supported through the intelligence function, should be to the long term benefit of the sport. It also addresses recommendations in the 2003 report aimed at encouraging a longer term focus on prevention.

4.9 The Review Team is satisfied that the broad strategy pursued by the IS&LD reflects both the contextual issues facing the industry at the time of the 2003 Review, the thrust of the 2003 Security Review and the overall aim of the BHA to protect the integrity of British horseracing. There is some evidence to suggest, however, that driven by the recommendations of the 2003 Review the IS&LD has, to a degree, developed in isolation from the BHA itself. This should not be seen as a negative because the IS&LD has been pursuing its objectives against a background of organizational change and the BHA has only been in existence since July 2007. However, as that organizational change stabilises against emerging BHA strategy, policy, and developments across the entire organization, there is a need to ensure synergy between the objectives of the IS&LD and the aims of the BHA.

## **STRUCTURE**

4.10 Notwithstanding the initial focus on investigation, the IS&LD also set about tackling the recommendations in the 2003 Review aimed at improving the intelligence function. The model chosen upon which to base this development, was the 'National Intelligence Model' (NIM) employed by the police service. Essentially, this model provides for processes to ensure that investigative effort is 'intelligence led' thus ensuring that resources are constructively deployed on tasks aligned to organizational objectives and those with the greatest chance of success.

4.11 Key requirements of the model are a pan organizational shared understanding of those areas in which the intelligence gathering effort should be concentrated (which, in itself should be informed by an organizational risk assessment). A similar understanding is required of what constitutes:

- intelligence
- intelligence flows
- the capacity to develop intelligence
- a tasking and coordinating function and
- mechanisms to ensure 'lessons learned' are captured and inform continuous improvement of the process.

- 4.12 The Review Team has considered the structure and function of the IS&LD against these requirements of the National Intelligence Model.
- 4.13 The department is currently split into elements: the Licensing Department, the Intelligence Unit, consisting of the analysts and betting investigators, the investigators and the Raceday Team, consisting of the stable inspecting officers, weighing room security officers (WRSOs) and stable security officers (SSOs). Fig 1 represents the current organizational framework of the IS&LD.
- 4.14 The Review Team examined each component element of the IS&LD. Our findings in respect of each are set out below. The Review Team then considered the functioning of the department as a whole and, in particular, its interaction with the other elements of the BHA.

#### **THE INTELLIGENCE UNIT**

- 4.15 The Head of Intelligence is responsible for co-ordinating all aspects of the intelligence function on behalf of the organisation. His main day-to-day responsibility is to manage the Intelligence Unit and, in particular, ensure that the staff are properly tasked in line with the National Intelligence Model (NIM). The Head of Intelligence is also responsible for organising and managing the Tasking & Co-ordination Group (T&CG) meeting, thus ensuring that all activity within ISLD is intelligence-led and is in line with the needs of the organisation. This also ensures that the Department's valuable resources are properly prioritised. The Head of Intelligence consults regularly with the Head of Investigations and ensures the investigations are adequately supported by the intelligence unit. When the Review started this post was vacant and being filled temporarily. During the course of the Review the incumbent was appointed substantively and developed his responsibilities as described above.
- 4.16 The **Intelligence Development Co-ordinator (IDC)** is responsible for the actual day to day running of the database and the influx of intelligence. He receives emails from the various sources of intelligence and ensures that they are filed in the database under the correct grading system. If further action is required on any of the data, then he will pass it on to the appropriate person in the unit, or seek further clarity from the source. He will also double check the information using the Weatherbys database, liaison with other agencies such as Trading Standards and the Office of Fair Trading or simply through the internet. He also answers questions posed to the

Intelligence Unit by running the searches through the database himself. Since the incorporation of the licensing function into the IS&LD he also carries out a search and then writes a review on applicants who are applying for a licence within the industry. This is then sent to the Licensing Department to assist them in their decision making.

- 4.17 The IDC is responsible for putting together investigation packs for the Head of Intelligence to take to tasking meetings and he also writes the bulletins, passing relevant intelligence to other members of the IS&LD. He receives approximately 150 reports a month, two thirds of which are generated by the Raceday Team, and a third generated by the office (although this will include those written up from emails/phone calls from a variety of sources).
- 4.18 The **Intelligence Unit Administrator** provides a range of support functions to the HOI and IDC, double checking facts, chasing up itemised phone bills that have been requested and updating lists of registered mobile phones. The post holder has responsibility for the maintenance of databases, files and general registers, such as case records. Administrative support is also provided to the Director's PA and Field Investigators
- 4.19 The role of the **Betting Investigators** is split into two parts; monitoring UK betting markets for all UK horseracing events and assisting Investigating Officers with current investigations. All UK horseracing markets are monitored for suspicious betting patterns. This monitoring includes watching markets on betting exchanges, traditional fixed odds bookmakers and spread betting firms. If they spot any suspicious betting patterns there is an alert system where the Stipendiary Steward on duty is contacted with either a Red alert or an Ordinary alert. The Stewards then hold a running and riding enquiry and, if requested or felt necessary by the Stipendiary Steward, inform the trainers and owners that the enquiry is being held at the request of the BHA Betting Investigators. The IS&LD liaises regularly not only with the Stewards but also with the BHA Handicappers and traders of various betting organisations. The Betting Investigators have a searchable database that records 20,000 lines of betting exchange data per day which is cross referenced with other databases containing information on jockeys, trainers and owners. This information is then used to create profiles to identify if any account holders favour particular licensed persons.
- 4.20 One Betting Investigator is assigned to each investigation and provides expert betting analysis throughout the investigation, including interviewing any persons

where betting plays a crucial part. Betting intelligence is developed by working closely with bookmakers and betting exchanges. Developing and maintaining relationships with betting firms is an essential part of the work. Betting Investigators produce in-depth betting statements and act as expert witnesses for each investigation if and when they appear before a Disciplinary Panel.

- 4.21 The two **Intelligence Analysts** also carry out two separate roles. The first role focuses primarily on the checking of phone records. Where concern has been raised over betting patterns in respect of a race or any given set of circumstances, the analysts will check the phone records of, say, a jockey identified as being of interest. They will be particularly interested in calls made on racedays or whether there are calls made to individuals identified within the intelligence database as being of particular interest.
- 4.22 The analysts' primary role, however, is to deal with the information that comes in during an investigation. They will analyse all phone records, account activity and race performance in order to produce a time line and contact matrix to identify all the participants in any investigation. They assess their investigations to be approximately 2/3 on betting and 1/3 on phone records.
- 4.23 The Intelligence Unit operates on a Memex database which was acquired following the development of a user requirement as recommended by the 2003 Review. This proprietary database, also used by the Metropolitan Police, allows searching of data according to a number of criteria that can be preset by the user. The IDC is responsible for data cleansing and ensuring that the management of the data accords with the provisions of Data Protection legislation.
- 4.24 Whilst it was not within the Review Team's remit to conduct an exhaustive analysis of the data held, we were somewhat surprised at the low level of entries (c4000) on a system that has been supporting a range of investigations and analysis for some years, especially given the potential range and sources of intelligence apparently available. The concern is that this indicates some under utilisation of the facility, possible reasons for which are discussed at paras 4.33 et seq.
- 4.25 An immediate issue of concern to the Review Team, however, is the fact that the Betting Analysts have their own database. We understand that they do also enter intelligence onto Memex but we have concerns about the potential impact on intelligence flow of standalone databases. Whilst this practice may be sufficient for the needs of the betting analysts, as they can keep track of suspicious betting

accounts and unexpected performance by horses themselves, it means the rest of the intelligence unit could be missing out on vital data. The handicappers also have a database on which they feel free to write observations which are not shared with anyone else as some of them are quite speculative.

- 4.26 Nationally there have been a number of recent high profile cases which have highlighted the danger of intelligence stored on stand-alone databases which, by definition, cannot be accessed by users of the primary database. The BHA could still face embarrassment or worse should it act on an incomplete intelligence picture when, in fact, it had the complete picture within its systems but did not realise or appreciate the fact.
- 4.27 The relatively small scale of the Intelligence Unit and the fact all the staff are co-located may mitigate against such an event given that all seem to be generally aware of the others' activities. However reliance on informal networks undermines the effectiveness of any intelligence gathering operation as well as introducing an unnecessary element of risk.
- 4.28 Overall the Review Team was satisfied that the component elements of the intelligence unit were fit for purpose in the context of the present workload and almost exclusive focus on horseracing. We note that some work on analysis is being undertaken on behalf of the Professional Tennis Association but this is presently covered by existing staff working overtime or during their leave. The issue of providing 'pan-sport' services is discussed at paras 4.78 et seq.
- 4.29 There is a sense however that the Unit has yet to reach its full potential. This is partly due to the variable nature of the intelligence flow between the unit and other constituent parts of IS&LD but also a lack of connectivity between the unit and the other elements of the BHA engaged in the regulation and oversight of the sport. These aspects are discussed in more detail at paras 4.71 et seq.
- 4.30 The Intelligence Unit has undoubtedly suffered over the past 18 months or so by the fact that the Head of Intelligence post has either been vacant or filled by a seconded investigator. That is not to say that the secondee has not made every effort, but he has also been carrying an investigative workload whilst trying to acquaint himself with the issues confronting the Intelligence Unit.
- 4.31 Consequently there is a feeling within the Unit that they have lacked direction during this period. This, in turn has added to the notion that the wider issues of intelligence



have been subordinated to the more immediate demands of investigation. This situation has been addressed during the currency of this Review by appointing the seconded investigator permanently to the post of Head of Intelligence.

- 4.32 A key function of the Head of Intelligence should be to ensure that the principles governing the collation and dissemination of intelligence are adhered to, thus preserving the integrity of the process. The fact that the Unit is small and that all elements are co-located is a strength, encouraging close teamwork. The fact that the Unit has dealt hitherto with a relatively small number of contacts has fostered a climate where individuals develop contacts and working relationships. This could pose a risk if it results in pieces of intelligence being considered or developed in isolation. The Head of Intelligence, together with the IDC, should maintain a position of overview ensuring they have the ability to spot trends; in order for them to do so it is imperative that intelligence is correctly processed.
- 4.33 The Review Team has commented on the relatively small size of the intelligence database and has referred to the fact that intelligence flow is variable. The fact is that any intelligence database is only as good as the information it contains. The Review Team is concerned that there are a number of areas with the potential to yield intelligence that are not being tapped because either individuals do not possess the appropriate technical understanding to access the system or they do not appreciate the value of the information they hold. This applies particularly to the Raceday Team, including handicappers and stewards. Further consideration of this aspect is given in Section 9.
- 4.34 The Review Team believes the appointment of a permanent Head of Intelligence provides the ideal opportunity for issues affecting intelligence flow to be examined. In particular, for reasons discussed hereunder and elsewhere in this report, the following aspects are in need of urgent review:
- The balance between the role of the Unit in supporting the investigative function and proactively gathering and exploiting intelligence.
  - Intelligence flow between the Unit, the Raceday Team, handicappers, veterinary branch, stewards, stable inspecting officers and licensing.
  - The definition of intelligence and subsequent focus of the Unit. At present it is almost entirely focussed on breaches of discipline, betting irregularities in as much as they may reflect breaches of the rules of racing, and potential

criminality in respect of both. If the overall aim is to 'protect the integrity of horseracing' then a wider assessment of potential threats to that integrity needs to be made (e.g. advances in technology that may impact upon traditional betting methods (mobile internet data), developments in biotechnology that may impact on methods of doping, the activities of animal welfare or animal rights groups). A clear definition of what is meant by intelligence would provide the basis to stimulate intelligence flow between the appropriate elements of the BHA.

- 4.35 There are some minor improvements that could be made to enhance the effectiveness of the analysts, such as the provision of a third screen at each workstation to provide them with a swifter overview of the information they need to access. This would be a relatively inexpensive outlay but should achieve a marked improvement in their productivity. Similarly, given that their work involves a considerable degree of concentration, the provision of better screening around them would reduce the number of distractions they presently encounter due to the open plan nature of the office layout.

## **THE PASSAGE OF INTELLIGENCE**

- 4.36 Intelligence is disseminated through the Tasking and Co-ordinating meetings which take place every two weeks from the Head of Intelligence. In theory packs that have been put together by the Intelligence Unit can then be handed to the Investigating Officers.
- 4.37 Possibly because of the initial focus on investigation, the Review Team felt that the Tasking and Coordinating meetings tend to take the form more of a review of investigations in hand rather than an assessment of the overall intelligence picture. This is supported by a view held by those within the Intelligence Unit that there is not sufficient time devoted at these meetings to discuss intelligence issues or develop intelligence gathering. Whilst investigation review is an important element of the tasking and co-ordinating process, it should be balanced against the need to retain focus on the wider intelligence picture.
- 4.38 The key members of the Raceday Team also have a limited access to the Memex database, meaning that they are able to carry out searches on their own. They can

also leave questions on the database about certain pieces of data, and will be automatically alerted when that information becomes available on the database.

- 4.39 Intelligence alerts are also sent out to people in the IS&LD through an open and unclassified intelligence folder and may be accompanied by bulletins, although these are only sent out when there is content sufficient to warrant the effort. SSOs, however, do not have electronic access and have to be sent the bulletins as hard copy. Stewards do have electronic access, but not all are aware of the existence of the folder and bulletins and are thus excluded from the intelligence flow.
- 4.40 Immediate intelligence is passed from the Intelligence Unit by phone to the Stewards or the representatives on the course (SSOs etc) and there appears to be an informal system of passing around of information by phone between those members of the Raceday Team who do not have access to IT. The Review Team makes recommendations on the improvement of information flow at the end of this section.

#### **PROACTIVE INTELLIGENCE GATHERING CAPACITY**

- 4.41 Previously the investigating officers were also intelligence officers, with a remit to gather intelligence proactively. The volume of investigation means that they are no longer able to devote sufficient time to proactive gathering of intelligence in the field. When through the NIM and Tasking and Co-ordinating process, an area for development of intelligence is identified, there is little capacity for it to take place. To some extent, some of this gap could be filled by better training and development of members of the Raceday Team, particularly WRSOs and Stable Inspecting Officers. The IS&LD is actively pursuing the appointment of a field intelligence officer but the Review Team considers that potential improvements in the intelligence gathering capacity of existing resources, together with improved intelligence flows, should precede any such appointment. This will at least ensure that the role of any new post can be clearly defined and its effectiveness maximised.

#### **THE CONDUCT OF INVESTIGATIONS**

- 4.42 The IS&LD carries out high quality professional investigations. Its investigative capability currently consists of four investigators, who report to the Head of Investigations (Hol). The Hol also acts as Deputy to the Director of IS&LD.

Historically there were six investigators. One post, however, was used to create the post of Head of Investigations (who does not ordinarily carry any caseload) and another vacancy is carried because IS&LD 'lost a post due to a budgetary oversight'. At the time of writing it is not known whether this situation is recoverable. Currently, therefore, there are four investigators. They work from home and, whilst they may have nominal responsibility for a geographical area this may not necessarily correspond with where they live nor does the allocation of cases necessarily take account of geography. Caseload demands are, therefore, exacerbated by the need to travel some distance on occasions. The fact that the investigators, in common with members of the Raceday Team, are home based and therefore widely dispersed creates general issues in terms of communication.

- 4.43 The investigators the Review Team met showed a commendable level of knowledge about the racecourses nominally within their remit and, during visits to racecourses, demonstrated a high level of interaction with other key players (Stewards, WRSOs, SSOs, Racecourse clerks etc.). In one particular instance there was a high level of interaction between the investigator and race goers which indicated a healthy environment for intelligence gathering.
- 4.44 The Review Team noted that the racing community tends, by nature and bound by common interest, to be close. Intelligence gathering in such circumstances requires considerable skill in terms of both gaining acceptance by that community and ensuring that one is not being led by the agenda of any particular faction. The observation of the Review Team is that this balance appears to be maintained in a professional manner by investigators.
- 4.45 An issue created by dealing with such closed communities, particularly where intelligence flows are ill defined, is that knowledge 'known by everybody' remains invisible to the intelligence system precisely because the assumption is made that everybody is aware and there is little point in submitting it to the database. Equally, because racing communities tend to be based either on individual racecourses or regionally, the requirement for a national monitoring overview is not always appreciated.
- 4.46 Investigating officers are tasked with investigations by giving them packs containing intelligence gathered up to a certain point by the Intelligence Unit. The investigating officer will then be asked to continue the investigation in order to gather evidence sufficient to allow a case to be made. The investigating officer is also assigned a

betting investigator and an analyst in order to help with investigations. Dependent on the nature of the case, they may also work with a stable inspecting officer.

- 4.47 The onus appears to be on the investigator to continue the work on this case. Investigators do sometimes request that the IDC conduct searches for them, but this is usually because the investigator is insufficiently experienced with the Memex database to do it himself. Any information from the investigations is then placed onto the Memex database so that other, or future, investigations can be aided by the information.
- 4.48 Investigators, due to their small number, go directly to other members of the IS&LD to help them with their investigations, particularly taking advantage of others' skills amongst the investigators. IS&LD policy is that, wherever possible two investigators (or an investigator and stable inspector) are assigned to each case. This ensures robust investigation procedures and enables skills development.
- 4.49 Although it does not appear that the investigators can or do task the Intelligence Unit to help with investigations (by targeting the intelligence collection) that does not necessarily mean it does not happen, as the department is so small and investigations sufficiently few (albeit complex) that everyone knows what everyone else is doing. In the opinion of the Review Team this emphasises the need for robust intelligence gathering procedures.
- 4.50 Investigators are recruited principally from amongst former police officers with wide ranging investigative experience (but see Recommendation 16 re broadening the background of the investigative and intelligence gathering pool). Consequently files are prepared in accordance with police practice, aimed at securing conviction in either the disciplinary or criminal environment., This can cause tension with the BHA Legal Department which views eventual disposal of a case as comprising a number of options ranging from 'conviction' (criminal or disciplinary), civil process, warning or recommended changes to BHA rules. The Review Team examined a number of case files which they found to be of a high standard, reflecting professional investigative practice. It should be noted that the success rate at disciplinary hearings is high.
- 4.51 It would be fair to say that the interface between the requirements of the Legal Department and the practices of investigation is an area that would benefit from some improvement. On the one hand, the Legal Department views the investigations undertaken as sometimes narrow in their scope, whilst the IS&LD see repeated requests from the Legal Department for greater background or contextual information

as unnecessary. This situation has some parallels with the early relationship between the Police and the Crown Prosecution Service, which points to the need for greater interaction and integration of the two functions.

- 4.52 Case debriefs, an important mechanism for learning from experience, tend to be held on an informal basis, and the Review Team could find little evidence to suggest that learning is relayed to all interested parties and, if it is, whether it is incorporated into future corporate activity. This was a weakness identified in the 2003 Security Review (see Recommendation 17 in Appendix B).
- 4.53 The Review Team believes that there is greater scope for the Legal Department and investigators to agree an investigation plan early on in the process and for the Legal Department to take a more active part in case management and case review.

#### **THE RACEDAY TEAM**

- 4.54 This part of the Integrity Services and Licensing Department is run by the **Security Operations and Project Manager**. Recently appointed to the role, the post holder has a staff of 11 Weighing Room Security Officers and 23 Stable Security Officers and she is assisted by the Security Operations Supervisor. She acts as a point of contact for all of the staff under her command on racedays. In her previous role within the BHA she was responsible for the dissemination and collection of intelligence and is therefore well versed in the issues confronting the intelligence unit. To her falls the task of bringing dispersed teams of staff, predominantly focused on their own role, into the wider intelligence fold. As well as being responsible for security on racedays her staff interact frequently with jockeys, trainers and stable staff and are, therefore, a potentially valuable source of intelligence. She has a clear vision as to what she wishes to achieve and is tackling the task with vigour.
- 4.55 She has visited all race courses in the last year (59, soon to be 61) and intends to do that every year. It is part of her role to recommend and implement changes to increase security at the race courses. She also liaises with the Race Course Management at each location in order to smooth relations between them and her security staff, as well as working with them in order to get the best security possible. She undertakes some duties herself, in part to cover for staff shortages but also to better understand the issues confronting her staff. She co-ordinates training across the IS&LD and has delivered a recent training package aimed at highlighting the

issues around 'Inside Information'. She has established links with a great many people in the industry: jockeys, trainers, race course staff and BHA staff. She views getting to know everyone as a very important part of her job, in order to make things happen and facilitate co-operation.

- 4.56 Her Second in Command is the **Security Operations Supervisor (SOS)** who runs what is described as tactical level security at the race courses. He also carries out many of the duties of both SSOs and WRSOs. He is responsible for general briefings to all of the staff.
- 4.57 The **Deputy Security Operations Supervisor** is a new post, and while carrying out the SOS's job while he is away on leave, he is now the key link between the Intelligence Unit and the Raceday Team. Although it has yet to be implemented, it is intended that he will put together briefings and ensure that they are appropriately distributed to all of the relevant staff. He will also become the key collator for evidence from the field force and will pass that straight to the IDC.
- 4.58 The **Weighing Room Security Officers (WRSOs)** are a relatively new role, introduced in the past three years in response to a court case that suggested that a lot of the 'inside information' that was seeping out just before a race was coming from the weighing rooms. In particular it was suggested that as jockeys discussed their thoughts about their mounts or disclosed any aspect of their intended race plan, unscrupulous individuals were passing that information on to outsiders using mobile phones. The WRSO is responsible for co-ordinating intelligence and integrity around the Weighing Room. He checks that no-one is using their phone without permission, and conducts random checks to see that people have turned off their phones and that the phone they are carrying is the one that is registered. WRSOs also liaise with the staff in the Weighing Room (such as the Clerk of the Scales) and then directly pass any intelligence that they pick up (e.g. from background chat or someone approaching them) and send it via email to the IDC who then enters it onto the intelligence database.
- 4.59 Those WRSOs met by the Review Team had established a good rapport with both jockeys and race course officials and were confident in their ability to monitor mobile phone usage within the environs of the weighing room. What happens when the jockeys leave the Weighing Room is another matter but the WRSOs spoken to seemed confident that as all officials were aware of the 'no mobile phone' rule, any jockey seen using one would be reported. The ban on smoking in the weighing room means that the jockeys now go outside to smoke, and this also has to be supervised,

which has stretched the WRSOs particularly at locations where the weighing room has numerous exits.

- 4.60 Whilst the introduction of WRSOs has gone a long way in allaying fears about the integrity of the weighing room, it has to be accepted that they cannot absolutely guarantee that integrity. Ultimately risk has to be balanced against the proportionality of preventative methods. A complete ban on mobile phones for jockeys and others whilst on the race course is not considered appropriate and the current arrangements do at least give WRSOs the opportunity to check for unregistered phones. See paras 6.30 et seq.
- 4.61 One potential measure that could assist WRSOs would be the provision of commercially available devices that can detect and warn of mobile phone usage within their vicinity. The cost effectiveness of such an approach would need to be considered in the light of the perceived risk.
- 4.62 The Review Team was advised that when an alert is given out for a particular race to the stewards, on most occasions neither the WRSOs nor the SSOs (Stable Security Officers) are made aware of this. They should be as they are in a position to observe the jockey, the horse, and other such as the trainer and stable staff.
- 4.63 The **Stable Security Officers** work in teams of at least two at each race course for the duration of meetings. Their task is to ensure that only authorised people are allowed into the stables, and that nothing untoward occurs inside the stables. Jockeys are not allowed in. They monitor the CCTV in the stables and conduct patrols to check the stables on a half hourly basis. They also guard the stables at night, one officer accompanying anyone who enters whilst they are in the stables.
- 4.64 In theory all licensed and registered individuals having business in the stables present themselves to the SSOs on arrival, their documentation is checked and they sign in. Once this has been done they are free to come and go as they please. Should anyone claim to have lost their documentation or to have been recently employed and therefore in the process of registration the SSOs will check out their story as far as is possible and issue them with a temporary pass. These procedures, in the opinion of the Review Team, do not inspire great confidence when one considers the value of the livestock they are designed to protect. The issue of physical security is discussed at paras 10.45 et seq.



- 4.65 The SSOs take the view that, by and large, they know everybody on the local circuit (which appears to be true, as many SSOs have long service and come from racing backgrounds) and do not require sophisticated high tech equipment. Indeed SSOs will argue that such equipment would distract them from personal contact with stable staff and undermine their ability to build a rapport.
- 4.66 Whilst there may be some merit in the SSOs' argument, the Review Team takes the view that the intelligence gathering capabilities of modern entry control activity outweigh any disadvantages. This is especially so when one considers the relatively low levels of intelligence presently gleaned from SSOs.
- 4.67 This, in many respects, is the paradox. The SSOs the Review Team met are all extremely knowledgeable about racing and those employed within the industry, yet this information remains largely untapped because the SSOs are in many respects 'the forgotten few' – and they feel it. Possibly because their location, the stables, are remote from the centres of public activity on racecourses they feel marginalised as members of the overall BHA team, nor are they included in any activity, such as briefing or debriefing that would encourage them to feel so included.
- 4.68 The introduction of WRSOs seems to have exacerbated this situation. WRSOs are paid at a higher rate than SSOs, do not work the antisocial hours and are not uniformed, all of which adds to the general antipathy felt by SSOs. As already stated the Review Team believes that the role of BHA staff at racecourses needs reappraisal. As part of that reappraisal and with the aim of enhancing the intelligence gathering capability the Review Team is of the view that:
- work currently being undertaken to link the SSOs more firmly into the intelligence network should benefit from input by the Head of Intelligence on information flows. For instance, alerts should be disseminated more widely to the Raceday Team.
  - the utility of electronic information bulletins should be enhanced by more regular publication and their circulation increased by ensuring the SSOs have access to them through improvement in access to computers and improvement in IT skills.
  - consideration needs to be given to the interaction between SSOs, WRSOs and the rest of the Raceday team.

These issues are further addressed in Appendix B, linked to the recommendation of the 2003 Review that a single individual be placed in charge of the BHA presence at each racecourse.

## **RACEDAY INTEGRITY UNIT**

- 4.69 The establishment of a Raceday Integrity Unit (RIU) was the proposal of the Director of IS&LD, together with the then Director of Regulation. Co-locating the Betting Investigators and the Race Analyst within a RIU and providing them with enhanced technology will enable IS&LD to provide a more comprehensive backup service to the Race Day Stewards. The Directors of IS&LD and the Director of Raceday Operations and Regulation (replacement for the Director of Regulation) are in complete agreement that this unit is required urgently in order to further enhance the integrity of racing.
- 4.70 The primary role of the yet to be appointed Race Analyst within the RIU will be to support the betting investigators in the proactive review of the day's racing in conjunction with the betting markets with a view to identifying races that are worthy of closer attention. This may be because of suspicious betting activity or the running of horses by connections that are of specific interest to the BHA. The Race Analyst will also provide support to ongoing investigations when needed through the provision of expert evidence. A further role of the Race Analyst will be to assist with the creation of target profiles on trainers, jockeys and owners who are of specific interest to the department.
- 4.71 The Review Team is unclear whether full consultation on this proposed unit has taken place with the stewards and other stakeholders. Those stewards interviewed and observed by the Review Team seem to have robust processes to ensure the integrity of races occurring under their stewardship. The BHA would want to be reassured that the Race Reader would add value to what the stewards already do.

## **THE CASE FOR MORE INTEGRATED INTELLIGENCE COLLECTION**

- 4.72 We began this section of the Review by pointing out that any intelligence system is only as good as the information it contains. That is true when one considers the intelligence database in isolation. The intelligence *function* however involves wider

consideration. How is intelligence viewed at a strategic level? Is the organization capturing the knowledge residing within its intelligence process to inform its decision making? In answering these questions as it develops its overall strategy the BHA should determine the nature of the future development and application of the intelligence function.

- 4.73 The present arrangements had their genesis in the 2003 Review which, as we have discussed, had as its primary focus the need to be more effective in identifying and dealing with assaults on the integrity of racing. The processes established as a result have, perhaps understandably, focused on corruption aimed at influencing the outcome of races, the use of inside information and the threats posed to integrity by developments in gambling. The intelligence function has developed therefore as an integral part of the IS&LD. As such it is relatively inward looking and, the Review Team would suggest, something of a mystery to other stakeholders within the BHA.
- 4.74 If the BHA is content for the intelligence function to remain a tool for supporting the activities of the IS&LD in fighting corruption at the level defined in its aims and objectives, then the Review Team considers that, subject to the recommendations made in this review, the current arrangements will be fit for purpose. The approach of using an electronic filing system in support of fairly sophisticated analytical capability will continue to support the investigative process effectively, if expensively.
- 4.75 We have examined the component elements of the IS&LD and, as is the nature of reviews, we have identified areas where we believe improvements can be made. It is important to stress, however, that we regard the progress made in establishing the structures and implementing processes as commendable. Introducing intelligence processes in any organization involves achieving changes in culture, especially in relation to sharing knowledge, and is therefore not a short term enterprise.
- 4.76 The Review Team found ample evidence of needs driven contact developing between the intelligence unit and others, notably between stewards, handicappers and the betting investigators. Such ad hoc arrangements, as we have identified, carry risks if they are occurring independently of the structured intelligence processes.
- 4.77 It appears that while relations between the various units are becoming much better now that they are all under the umbrella of the BHA, there is still a tendency for them to see their roles as different - Stewards maintain the integrity of the race, Handicappers keep things fair, and the IS&LD is there to deal with corruption and

general security issues. The reality is that they are all attempting to achieve the same goal, and this needs consideration at a strategic level to determine whether internal structures are aligned to corporate goals.

- 4.78 The Review Team believes that as part of its strategy development the BHA should consider carefully how to achieve the full engagement of all its constituent elements, not only in providing a professional response on racedays but in analysing potential threats to integrity.
- 4.79 We have heard much about the potential for the IS&LD model to be developed to offer support to other sporting regulatory bodies. In our interaction with other bodies, the work of the IS&LD was frequently commented upon, notably by the Gambling Commission, as 'cutting edge' and a model that should be developed across other sports
- 4.80 It is understood that cheating activity may well be carried out by the same individuals across a range of sports or betting areas. So there is an obvious advantage in not restricting intelligence gathering to one sport. There is no body which would undertake pan sport intelligence gathering. The Gambling Commission has made it clear that it has neither the capacity nor the intention of taking this on. See Section 5.
- 4.81 There would be a business case for offering services to other sports, as it would contribute to the costs of the unit and make enhancements cost effective. The Review Team considers that such services should be restricted to betting analysis and possibly inputting and analysis of intelligence product. It should not include taking on the intelligence gathering function for any other sport.
- 4.82 If the primary focus of the IS&LD is keeping the BHA house in order and dealing principally with the regulated community, this would be a powerful argument against broadening into other areas. The Review Team recommends that the BHA should concentrate its efforts on promoting integrity amongst those it regulates, and that the IS&LD should look to deter, prevent and detect wrongdoing of those within the BHA regulatory ambit. Those outside, who may be the corruptors, cheaters, money launderers or other kinds of criminal, are properly dealt with by other bodies. If those bodies are unable or unwilling to do so, it does not follow that the BHA should take on that responsibility. See Section 5.

## **POST IMPLEMENTATION REVIEW**

4.83 The post implementation review of the 2003 Security Review is set out in full in Appendix B. It gave rise to a small number of recommendations which all relate to the intelligence function, and are incorporated into the recommendations for this section.

**R 1** The Review Team recommends that the IS&LD reviews its strategy to ensure that it derives from the BHA Strategy which is currently being developed, taking into account the recommendations of this Review. The Review Team recommends that the BHA's strategic position on protecting the integrity of horseracing militates against it taking on a pan sport role. This does not preclude consideration of offering contracted out services to other sports which should be restricted to betting analysis, and possibly inputting and analysis of intelligence product. IS&LD should not consider taking on the intelligence gathering function for any other sport.

**R 2** The Review Team recommends that an analysis of intelligence flow be undertaken by the newly appointed Head of Intelligence with a view to ensuring that intelligence links are maintained with all departments of the BHA. Within this, consideration should be given to the best way of enhancing the proactive field intelligence gathering capacity and ensuring that all intelligence within the BHA is stored on a common database. To enhance the performance of the raceday team, a nominated individual, probably the Weighing Room Security Officer (WRSO) should take responsibility on behalf of the BHA for intelligence and integrity at all racing events. All security staff must be briefed at the commencement of each race meeting, such briefings to include any intelligence alerts and overall security arrangements. Similarly, intelligence debriefs should be held at the end of each meeting.

**R 3** In support of improved intelligence function and investigation, the following recommendations are made:

- there is greater scope for the Legal Department and Investigators to agree an investigation plan early on in the process and for the Legal Department to take a more active part in case management. We recommend the drafting of a protocol between the two departments setting out the role of each in the prosecution process, the levels of service each can expect from the other and joint case management protocols.
- The approach to case debriefs should be reviewed to ensure that learning is relayed to all interested parties and incorporated into future investigations.
- The IS&LD should review the procedures in place to ensure the integrity of all evidence.
- The IS&LD should review the issue of all equipment such as digital cameras and adopt a consistent documented approach to their use. Guidance should be given to ensure they are not used inappropriately or intrusively.
- There should be a specified minimum induction programme for new IS&LD staff designed to ensure familiarity with all other aspects of the BHA operation. Similarly other departments should arrange familiarisation with IS&LD functions and processes as part of the standard induction of their staff at all levels.

## **5 RELATIONSHIP WITH THE BETTING INDUSTRY AND OTHER BODIES**

### **BETTING INDUSTRY**

- 5.1 The BHA maintains good relationships with external bodies. In the case of betting organizations and the Gambling Commission these are underpinned by comprehensive memoranda of understanding (MOUs) which clarify the aims and objectives of the signatories, identify areas of common interest and specify how they will co-operate in support of each other.
- 5.2 Memoranda of Understanding (MoU) currently exist with Betfair and the Association of British Bookmakers (ABB) on behalf of their members which include all major bookmakers, as well as with the National Joint Pitch Council. MoUs also exist with Betdaq, Ladbrokes, William Hill, the Tote, Columbia Exchange Ltd (Canadian Betting Exchange) and LevelBetting.com. MoUs are currently being developed with the Gambling Commission and a number of UK police forces that have racecourses within their jurisdiction. The MoU with the Gambling Commission is particularly critical given the issues highlighted later in this section.
- 5.3 A commendable aspect of the MoUs which the Review Team is the provision for each agency to second staff to the other. We understand that thus far this has only occurred with Betfair. A similar provision exists in the draft MoU with the Gambling Commission and we suggest this is an area that would benefit from such interaction.

### **POLICE AND OTHER ENFORCEMENT AGENCIES**

- 5.4 There is regular contact at an operational level between the IS&LD and individual police forces, which is the appropriate level of contact for day to day operational matters. There is also regular contact on individual cases with SOCA (Serious and Organized Crime Agency), HMRC (Her Majesty's Revenue and Customs) (re

- tax and money laundering) and the FSA (Financial Services Authority). In the main, these organizations approach the BHA for assistance. The IS&LD Director maintains open access for all these bodies and endeavours to respond to their requests for assistance.
- 5.5 The City of London Police (CoLP) has lead status for the investigation of economic crime for the South East of England for which it receives specific funding. The post of Commissioner carries national responsibility for economic crime within ACPO. Where an alleged crime has no geographic locus, the CoLP would consider taking on the investigation, if there were a public interest in doing so. This was the situation in 2003 and remains so.
- 5.6 In late 2003, it was agreed between the then Commissioner and the Jockey Club that the CoLP would act as the single point of contact to which the Jockey Club would report incidents of fraud.
- 5.7 There have been developments since 2003. The CoLP now has a specialist command for Economic Crime, the remit of which includes some specific national and international responsibilities. Following the Fraud Review, the CoLP now has funding to create the National Fraud Reporting Centre which will collate and analyse intelligence and information on fraud for the whole country. This will come on line in late 2008 or early 2009. A further development is the use of a 'case acceptance criterion' to support the Force's decision-making process for accepting or rejecting a case for investigation.
- 5.8 In view of its national responsibility for the collation of intelligence about fraud, the CoLP would examine all information on cheating, corruption and fraud in horseracing. The CoLP will consider the possibility of their being a single point of contact (SPOC) for the police service, in cases involving corruption. They would then be able to discuss cases with the BHA to guide, advise and facilitate further action. Ideally, an MoU would be put in place.
- 5.9 The CoLP does not rule out accepting cases of corruption in horseracing for investigation and possible prosecution in the future. They would see themselves, through the Gambling Commission working with the BHA and recognizing its status as a regulatory body and its expertise. This would be unlike the position



- with the case of Rodgers et al, where the Jockey Club was viewed as a complainant and its staff as witnesses. The CoLP would envisage some kind of partnership arrangement. Before accepting a case, they would want detailed protocols with the BHA around information and intelligence sharing which would be set out in any MoU. The CoLP would not rule out entering into a funding arrangement with the BHA which would be properly documented before any investigation started. There are precedents for bodies providing funding to police forces. For instance there is a protocol between the police service and FACT (Federation against Copyright Theft) which involves some funding from FACT. There are, however, differing views on the legality of such arrangements.
- 5.10 The issue of disclosure is important in any prosecution. Any precursor work done by the BHA should, as it does now, take into account the fact that full disclosure of what has been found in the course of the investigation may need to be effected. In the event of any partnership working, BHA staff would have to be mindful of compliance with disclosure requirements, which are set out in the Criminal Procedure and Investigations Act 1996.
- 5.11 The CoLP is initiating work to develop a relationship with the Gambling Commission and considering how the offence of cheating under Section 42 of the Gambling Act 2005 might be used. They will be considering how the BHA, the Gambling Commission and the police could work together in the event of a case being sufficiently serious to warrant police investigation. They have some concerns about the practicalities of an approach involving three bodies and what the capability and capacity of the Gambling Commission would be to support such investigations.
- 5.12 The CoLP was the chosen point of contact for the Jockey Club and has indicated that it is willing to remain so for the BHA. These arrangements need to be formalised and should take into account the position of the Gambling Commission. This one MoU could supersede the existing MoUs which are in place with some individual forces. One important point to bear in mind is that the CoLP cannot undertake any investigation in Scotland, and a separate arrangement would need to be made. We suggest that the BHA approach

ACPOS (The Association of Chief Police Officers in Scotland) with a view to developing a similar relationship.

- 5.13 The Gambling Commission is developing an MoU with the Association of Chief Police Officers (ACPO) which includes a statement of joint responsibilities in determining investigation plans and a list of single points of contact with every police force in the UK. The Review Team recommends that the BHA investigate whether they might be joined in this arrangement.

#### **DEPARTMENT FOR CULTURE MEDIA AND SPORT**

- 5.14 The DCMS (Department for Culture, Media and Sport) is the sponsoring body for the Gambling Commission. Its view is that there is no clear evidence of a connection between betting and corruption, or that betting, per se, drives corruption in sport. They point out that there is a uniquely symbiotic relationship between dog and horseracing and betting. That is why the horse race betting levy exists only for horseracing and there is a voluntary levy for dogs.
- 5.15 The DCMS view is that the case has not been made for the betting industry to pay to support sport or the promotion of integrity in sport in general. They favour voluntary arrangements to fund integrity in sport. Some parts of the world (e.g. parts of Australia) have begun to move towards a statutory relationship between betting and sports, but sports which are not bet on could view this as disadvantageous to them. DCMS supports voluntary arrangements to finance work on integrity and make contributions to a range of lower profile sports. Betting bodies may choose to do this to promote their image.
- 5.16 DCMS is concerned about protecting the interests of the betting public, and mindful of the commercial interests of the betting industry. It is worth re-emphasising, however, the relationship between the betting industry and horseracing. A loss of faith in the integrity of horseracing would have financial ramifications both for the betting industry and for horseracing as a whole.
- 5.17 DCMS has a good relationship with the BHA, with regular meetings at various levels. It wants to support them in laying to rest the view that horseracing is

endemically corrupt, which they do not believe to be the case. DCMS also has a good relationship with statutory sporting bodies like UK Sport and Sport England. Some sports such as football, tennis, rugby and cricket are keen for DCMS to shine a spotlight on the issue of integrity in sport and are also lobbying the Gambling Commission to widen its focus. Other sports consider that increased betting on their sports is putting them at risk, but only horseracing benefits from the levy, and the other sports would like to benefit similarly. The betting industry is opposed to making any further contributions and says it does not see any need for enhanced (and more expensive) intelligence gathering.

- 5.18 In determining its position, DCMS would like to see more evidence about the relationship between betting and sport, and the risks posed to integrity. CCPR (the Central Council for Sport and Recreation) has commissioned a piece of work from the University of Salford which is to undertake research into the risks posed by sports betting. The results of this research will be important in resolving the competing claims over this issue. The DCMS is pleased to see BHA taking the lead on integrity issues and sharing their expertise with other sports.

## **GAMBLING COMMISSION**

- 5.19 The Gambling Commission has been in existence since September 2007. Its purpose is to regulate gambling in the public interest. It does so by attempting to keep crime out of gambling, by ensuring that gambling is conducted fairly and openly, and by protecting children and vulnerable people from being harmed or exploited by gambling. The Commission also provides independent advice to the government on gambling in Britain.
- 5.20 The Gambling Commission is a non departmental government body (NDPB). It receives some grant aid from central government but the bulk of its income comes from licence fees. It has an arms length relationship with its sponsoring department, DCMS. Because the Gambling Commission is a new body dealing with betting and, because it is supported by new powers derived from primary legislation, which may be of practical use to the BHA in the discharge of its regulatory functions, the BHA has an interest in understanding its role and

objectives. Specifically, the BHA is keen to see how investigations can be supported and strengthened.

- 5.21 Although the Gambling Commission has enforcement powers which DCMS would expect to see it use, both DCMS and the Gambling Commission see the Commission's priority as being to ensure compliance through the licensing regime. The Gambling Commission receives the bulk of its income from licence fees. Its focus is seen as being at the regulatory end, using means such as fines and withdrawal of licences, with prosecution used as a last resort.
- 5.22 Resource levels are focussed on compliance, with an establishment of about seventy, compared to an enforcement establishment of around thirteen. Enforcement and compliance staff work jointly as necessary and both will work with Local Authorities, police forces and SOCA dependent upon the seriousness of the matter in hand. The current focus of enforcement activity is predominantly on illegally operating poker clubs, illegal gaming supply (machines), unlawful betting or the illegal activities of personal licence holders (e.g. a croupier cheating in a casino).
- 5.23 A new offence of cheating has been created by Section 42 of the Gambling Act 2005. This states:
- (1) A person commits an offence if he
    - (a) cheats at gambling, or
    - (b) does anything for the purpose of enabling or assisting another person to cheat at gambling.
  - (2) For the purposes of subsection (1) it is immaterial whether a person who cheats
    - (a) improves his chances of winning anything, or
    - (b) wins anything.
- 5.24 Section 42 will be particularly applicable to cases with which the sporting regulatory body cannot deal itself (i.e. a person beyond their regulatory control) and which do not relate to a person licensed by the Gambling Commission. In the BHA's view this would be the person who is the corruptor. Previously, there was no specific offence such as that defined in S42, and rather vaguer charges of conspiracy had to be brought. Conspiracy requires more than one person, so such charges invariably had more than one defendant which makes the

prosecution more complicated and proving the case more difficult. Where there is evidence, the Gambling Commission, which is a prosecuting body in its own right, can bring a charge under Section 42.

- 5.25 Condition 15 of the license imposed under the Act places an obligation on the licence holder to report if they suspect any activity which affects their license, if they suspect cheating, or if a rule of the sport has been transgressed. They must report to **both** the Gambling Commission and the relevant sport regulator. In the Review Team's view there is a need to ensure good communication, to avoid the possibility of either party taking action which cuts across something being done by the other. The Commission expects the bulk of the information gained in this way to be dealt with by the relevant sport's regulatory body. There are considerable resource implications if action were to rest with them and there would be real issues about timeliness, as such information may come in just before a sporting event which may well be in the evening or at the weekend.
- 5.26 The Gambling Commission has an intelligence unit to support the Commission's strategic direction and operational activity, and is developing connections with law enforcement and other partners to facilitate information and intelligence exchange and to support collaborative case management where appropriate. The unit does not envisage itself taking on a major pan sport role or extensive monitoring of the betting markets as core business.
- 5.27 The Gambling Commission has a particular interest in money laundering, which it sees as a potentially major threat to its objective of keeping crime out of gambling. The levels of cash transactions within the industry present opportunities to launder money is through gambling activity and thus industry activities and persons engaged in the control and management of the betting industry are of particular interest in this context, Thus disclosures from bookmakers who have only recently come under regulatory control are particularly important (Condition 15).

- 5.28 The Commission is developing relationships with SOCA (Serious and Organized Crime Agency) and is working with the Financial Action Task Force [FATF]<sup>3</sup> to ensure that money laundering controls are effective within the industry.
- 5.29 The Gambling Commission is seeking to determine the extent of its remit and where the responsibilities of regulatory bodies lie. It sees the objective for regulatory bodies such as the BHA as being to promote integrity within the sport (horseracing) whilst the Gambling Commission is responsible for ensuring integrity in sports betting. Its expectation is that regulatory bodies such as the BHA will keep their own house in order, and not look to the Commission to act on matters which are properly within the power and remit of the regulatory body.
- 5.30 The Gambling Commission has a good relationship with the BHA. There is increasing contact at various levels which are likely to develop into a formal meeting cycle (e.g. quarterly or half yearly). Work has started on a draft Memorandum of Understanding (MOU). The Gambling Commission's relationship with the BHA is more advanced than with other sporting regulatory bodies, and the BHA is being used as the pathfinder.
- 5.31 The Gambling Commission has told the Review Team that early notification by regulatory authorities of a potential offence under Section 42 of the Gambling Act 2005, with a case conference to make case management decisions, would be important in enabling them to decide whether to become involved in a case. It would be necessary to determine whether primacy rested with the police, the Gambling Commission or with the regulatory body. A joint investigation might ensue. The Gambling Commission was of the opinion that the police might be nervous of taking on a cheating case, as would the Commission without an effective case management process in place. The more the focus of a case was on gambling at the serious end of the scale, the more the Gambling Commission would take an interest. In determining what role they would undertake, they would take a view on the public interest and the deterrent impact of an

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<sup>3</sup>The Financial Action Task Force on Money Laundering (FATF) was established by the G-7 Summit that was held in Paris in 1989. Recognizing the threat posed to the banking system and to financial institutions, the G-7 Heads of State or Government and President of the European Commission convened the Task Force from the G-7 member States, the European Commission, and eight other countries.

investigation. The Gambling Commission would not expect the BHA to help carry out investigations that were not germane to the members of the BHA's regulated community.

- 5.32 The BHA, the Gambling Commission, and the CoLP need to develop some clarity about how cases of fraud and cheating will be dealt with in the future. Both the Gambling Commission and the CoLP have mentioned partnership arrangements and joint investigations. Careful thought needs to be given to what these might mean and how they might operate, particularly in the light of our recommendations below as to the need for the BHA to pursue its disciplinary process, as far as possible, independently of any criminal process. The BHA is keen to assist and give the other organizations the benefit of its knowledge and expertise. However, they will also want to ensure that they do not make a disproportionate contribution, and that the main thrust of their efforts is directed at those whom they regulate.
- 5.33 The Review Team also discussed with the Gambling Commission how it expected to use its powers under the Regulation of Investigative Powers Act 2002 to obtain telephone records. This is discussed at greater length in the section on Regulation (see paras 6.1 et seq). The Commission would only be able to exercise this power if a crime was alleged. They would only envisage doing it at the more serious end of the spectrum, following a case conference. Appropriate cases would probably be where there was a joint investigation. They would be able to share the information with the BHA under Section 30 of the Gambling Act 2005, as the BHA is a designated body within the accompanying schedule.
- 5.34 The Review Team explored with the Gambling Commission how it intended to use its power under Section 336 of the Gambling Act 2005 to void bets. The legal advice received by the Commission is that only the bet between the perpetrator and bookmaker would be voided and not all bets on a particular race or outcome. It is possible that the Commission could work in collaboration with the BHA in circumstances where the Commission considered voiding a bet and BHA retained responsibility for regulation. This would have to be explored at case conference level.

5.35 In conclusion, the Gambling Commission will act primarily in serious cases, (i.e. where the investigated activity poses serious risk to the licensing objectives), which involve betting. Their expectation is that the BHA will deal with matters which fall within their remit, and will only refer matters to the Gambling Commission that threaten the licensing objectives and which the BHA cannot deal with itself.

5.36 This fits well with the strategic position which the Review Team suggests the BHA adopts.

**R 4** The Review Team recommends that the BHA should deliver its aim of preserving the integrity of horseracing by focussing its efforts on those who fall within its regulatory ambit. When it becomes aware of wrongdoing by those outside of its regulatory remit, it should refer such wrongdoing to the appropriate body, usually the Gambling Commission and/or the City of London police. When a joint investigation is agreed, the terms of reference must be carefully drafted to ensure that the BHA element is focussed on areas subject to its regulation, where it has expertise and powers and that its contribution is not disproportionate. The BHA should develop formal arrangements in the form of MOUs with the City of London Police and the Gambling Commission, and consider the interrelationship of the two bodies. The BHA should also review existing MOUs to ensure they cover the appropriate range of organizations, are up to date in the light of the Gambling Act 2005 and the existence of the Gambling Commission.



## 6 REGULATION AND LICENSING

### ORDERS AND RULES

- 6.1 The BHA has a very extensive and comprehensive set of rules, orders, instructions and codes of conduct which are contained in a volume called the 'Orders and Rules of Racing'. The British Horseracing Authority and the British Horseracing Board each had their own rules, orders and instructions which have been amalgamated. This, together with periodic amendments, has produced a document which is like Topsy who, when she was asked: *'Do you know who made you?' replied: "Nobody, as I knows on... I spect I grow'd. Don't think nobody never made me."*<sup>4</sup>
- 6.2 Perhaps due to its mixed heritage the classification of what is a rule, an order or an instruction is unclear, as is the purpose of each. Because the Orders and Rules are subject to amendment, the book is reissued every year. The Orders and Rules also appear on the website with a search facility and information on recent and forthcoming rule changes.
- 6.3 This document is very complicated, the same topic is covered in different places, and it is certainly not user friendly. It has grown exponentially in an effort to cover every eventuality. The BHA recognizes the problem and has made it an early task to review the document and produce something much more useable. They have retained the services of a consultant with an extensive background in the formulation of regulations and legislation. She is currently working to rationalise the rules and formulate them in more user friendly language. Although it is not her role to alter the content, BHA will welcome her views.
- 6.4 She is dividing the current document into a series of targeted manuals covering different areas of business. There will be General Manual which will set out the powers of the BHA. Then there will be a Race Manual, Trainer Manual, Rider

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<sup>4</sup> Harriet Beecher Stowe, Uncle Tom's Cabin

Manual, Horses and Owners' Manual, and a Race Course Administration Manual. The current situation where there are both instructions and rules will be remedied and the distinction removed; there will no longer be any instructions.

- 6.5 The Review Team has taken into account the views of the consultant on how the rules for the BHA might look in the future. We are of the view that, ideally, rules should be based on a set of underpinning principles. The rules themselves should not be too detailed in order to allow them to be applied more flexibly. The consultant was involved in drawing up the regulations for the Financial Services Authority (FSA) when it was set up. There is some read across to the BHA as, for both organizations, the rules in the main have to be detailed, specific and prescriptive. The recommended model would be to have a set of principles with codes of conduct and then rules which sit underneath. A breach of a principle or code of conduct could lead to a liability to disciplinary sanction, even if there is no specific rule. This gives flexibility and means that it is not necessary to try to cater for every eventuality in the rules.
- 6.6 For example, the current Rule 220(iii) is actually an articulation of the principle of integrity in horseracing. It says: 'No person shall act in a manner which in the opinion of the HRA is prejudicial to the integrity, proper conduct or good reputation of horseracing in Great Britain whether or not such conduct shall constitute a breach of any of the foregoing Orders or Rules of Racing.' With some streamlining, it could form one of the principles. These overarching principles would be informed by the BHA's strategic aims and so would include issues relating to animal welfare, fairness etc.
- 6.7 The existing Codes of Conduct contained within the BHA Orders and Rules relate to different classes of individual and areas of activity. These would need to be rationalised and could then sit under the principles.
- 6.8 Rules should be reduced in number and kept simple and clear. There would probably also need to be guidance, which would have a different status from the rules, as guidance is not mandatory and failure to follow it would not, per se, constitute a disciplinary offence, though it might be a contributory element.

- 6.9 The French horseracing rule book is much leaner than the British one. The French equivalent of the BHA Director of Regulation is understood to have said: 'Over-regulation leads to mental castration'.
- 6.10 There is a range of other documentation in existence which controls activities within horseracing. For instance, there are the Standard Operating Procedures (SOPs). Examples are SOPs which apply to Stable Security Officers and Weighing Room Security Officers and set out how they should undertake their duties. There are other SOPs for officials such as judges and starters. In addition, the Review Team was advised that there is other guidance entitled 'General Instructions' which contain detail which is only relevant to those undertaking the specific functions to which they are applicable. An example might be detailed information on design and management of race courses. This considerable quantity of necessary material amounts to what might be termed the 'Procedures for Horse Racing'. All these procedures, including the considerable amount contained in the Rules and Orders, such as how disciplinary hearings and appeals should be conducted, should be consolidated.
- 6.11 The Hurlingham Polo Association is the governing body for Polo. Although the sport is less complex, it has a regulatory model consisting of Rules and Regulations which has a clarity which could be a model for the BHA. The regulations differ from the rules in that they set out the procedures in the manner suggested above.
- 6.12 A large section of the Orders and Rules relates to employment conditions. It is evident that some of this has been superseded by employment legislation and the relevance of including it within the rules is, therefore, doubtful. For instance, if a trainer fails to comply with the terms and conditions of service for those working in the stables, one might take the view that this is evidence of lack of suitability for the grant of a licence, rather than a disciplinary matter. The trainer's licence should be granted on condition that staff are employed on conditions which are fair and reasonable, but need not go into a great deal of detail.
- 6.13 It is not usual in other regulated areas to find employment issues dealt with in such detail within the regulatory framework. In the case of the BHA this has

developed because stable staff were poorly paid individuals who needed protection from exploitation. Generally, trade unions and staff associations negotiate terms and conditions with employers. This role has been taken on by the National Joint Council for Stable Staff, which is the negotiating body for stable staff pay and conditions. It combines representatives of both the National Association of Stable Staff and the National Trainers Federation.

6.14 The Review Team suggests that the BHA take legal advice from a specialist in employment legislation on the parts of the Rules and Orders relating to employment. We believe that most of it should be removed from the Rules and Orders and remitted to the National Joint Council for Stable Staff. We also believe that the principle of being a good employer should be a condition of a trainer's license and not part of the regulatory framework. Failures in this area might be evidence that a trainer is not a fit and proper person to hold a licence and could be dealt with as such. See our observations on Licensing further on in this section.

6.15 There are sections of the rules about the owners' relationships with trainers. Again most of this does not seem relevant or appropriate for BHA regulation. For instance there is a section about the agreement between an owner and a trainer and about training fees and additional expenses (Rule 52). If an owner does not pay a trainer, there is a set of detailed procedures involving the BHA which can result in the owner's name being added to the 'Forfeit List'. In most other spheres, this kind of matter would not be subject to regulation but would be a civil matter between the two parties. However, an owner's conduct would be relevant to his or her suitability to be registered. The rules should deal with the owners vis a vis the activity of horseracing only.

**R 5 The Review Team recommends that the whole approach to regulation should be reviewed and considerably streamlined and simplified. The underpinning principles should be articulated, together with codes of conduct. The rules should flow from these. The rules for licensed and regulated persons should be restricted to those which are relevant to horseracing. The BHA should consider what elements of the existing rules are either superfluous or more properly licensing conditions or conditions**

of registration. The procedures for horseracing should be gathered into a separate body of documentation. There may also be a place for guidance which should be distinct from rules and procedures. Adherence to guidance may be a relevant consideration either for discipline or licensing and registration.

## **SPECIFIC RULES**

6.16 The Review Team considered the rules relating to integrity and saw no reason for changes to be made other than in the overall approach advocated in the previous sections. Representations were made to the team on a number of the rules (e.g. 241(i)(c) agreeing a time and place for interview) but, when explored fully, there seemed no compelling reason for change. More information on other rules where changes were considered may be found in the Post Implementation Review of the Recommendations of the 2003 Security Review (Recommendations 35 and 36)(see Appendix B), where we have not made any recommendations for further change. Some specific rules which the Review Team consider particularly relevant to this Review are discussed below.

### **Rule 241**

6.17 Rule 241 relates to the requirement to provide information or records to the BHA (241(i)(a)) and to the requirement to agree within a reasonable time to an interview by the BHA and to attend such an interview (241(i)(b)). Under Rule 241(ii), jockeys, trainers and various others must ensure 'that the agreement with the relevant service provider for any telephone they use regularly is such that they can obtain itemised details of all calls so as to comply with a request for information...' Rule 241(iii) relates to the requirement to provide a copy of information stored in a computer or other electronic device. Copies may be provided on disc or in hard copy.

6.18 Investigators in IS&LD experience considerable difficulty in obtaining telephone records which are often essential to an investigation into an allegation of cheating or corruption, as they are used to prove the connection and communication between the parties. The investigator makes a written request for telephone

- billing accounts for a specified period (Rule 241(ii)(1)). If the person does not have an itemised bill, they must then go to their service provider for the record. Even if this is done expeditiously, it can take some considerable time before this comes through. Further problems arise if the person of whom the request has been made has been using a telephone belonging to someone else as they must get that person to approach the service provider for itemised details.
- 6.19 Recently the BHA had to make a public apology to a trainer against whom an allegation had been made about suspicious betting. The investigation had gone on for a year and been delayed by the difficulty in obtaining the jockey's telephone records. The investigation into the trainer was called off because of the long delay, but the trainer said his reputation was damaged and that his business had suffered during that year long period.
- 6.20 When telephone records cannot be obtained using Rule 241, then the IS&LD can make an application to the High Court seeking a Norwich Pharmacal order. This is an order to a third party to disclose evidence relating to the party under investigation. In this case an order would be sought to require a company to supply relevant telephone records. The respondent is not likely to be a party to the potential proceedings. The applicant must demonstrate that it is in the public interest to order the disclosure. A Norwich Pharmacal application enables the IS&LD to obtain the records, not only for people within the BHA regulated community, but of third parties. For instance, this could be the person who is thought to be corrupting a jockey. The records can provide evidence of contact at a critical time such as shortly before a race, where it is alleged that the jockey stopped the horse and the corruptor and his or her associates brought off a betting coup.
- 6.21 Applications under the Norwich Pharmacal principle have been made six times since 2005 and on each occasion the BHA (or its predecessor bodies) has been successful in convincing the court that the requirements of the BHA outweigh the individual's right to privacy. However these applications are time consuming (average eight weeks), invariably require Counsel to be instructed and have (until recently when the in house team took on more of the preparation work) cost on average £6-7,000.

- 6.22 An easier way to obtain telephone records would be through the exercise of powers under the Regulation of Investigative Powers Act 2000 (RIPA). Section 22 may be used by a designated person from a body authorized under the Act for the purpose of preventing or detecting crime (or for other purposes not relevant to the BHA) to obtain communications data, which includes telephone records, from telecommunications operators. The designated person may not require the data to be provided by the telecommunications provider unless he believes that obtaining the data in question is proportionate to what is sought to be achieved by obtaining the data.
- 6.23 The BHA is not a body authorized under the Act, but the newly formed Gambling Commission is. The Gambling Commission has told the Review Team that it would consider making an application if it considered it appropriate and proportionate. It would have to relate to an allegation of crime. They would envisage a case conference taking place and that in all likelihood, it would be in the context of a joint investigation. They could share the information obtained with the BHA under s30 of the Gambling Act 2005, as the BHA is a listed body under Schedule 6 of the Act.
- 6.24 However, the BHA's problems with accessing telephone records will not be solved by the existence of the new Gambling Commission and its powers under RIPA, as assistance will only be provided in limited circumstances.
- 6.25 An obvious improvement would be to amend Rule 241(ii) to require the relevant people (jockeys, amateur riders, trainers licensed under Rule (50(i), Master Jockeys' Valets and Master Valets' Assistants) to subscribe to itemised billing for telephones they use regularly, rather than merely to be able to obtain itemised details if required. The individuals should also be required to retain the itemised bills for a period of three years. The rule should be further amended to allow a requirement to produce itemised details for any telephone they have used, even if it belongs to someone else. Failure to produce any such records within a reasonable time should result in disciplinary action.
- 6.26 It would often be beneficial to an investigation for the investigators to be able to take possession of mobile telephones and other electronic communications devices and computers in order to download data such as emails, text

messages, including deleted emails and text messages, and address books and telephone directories. We suggest amending Rule 241 (iii) to allow the BHA to require persons subject to regulation to hand over mobile telephones, other electronic communications devices, computers and documents to the BHA for analysis. This should also be a condition of the grant of any licence or registration.

6.27 It would also assist investigations if Rule 241 were widened to refer to the provision of documents as well as information and records.

6.28 Bodies which routinely seize devices such as this (e.g. police forces, Serious Fraud Office) generally have systems which allow them to return the devices to the owner quickly or to provide the owner with copies of the data, so they do not lose access to such things as their telephone directories. The BHA should adopt such practices in order ensure their actions are proportionate and to minimise the inconvenience to the individual from whom the device or documents have been taken.

6.29 Finally, the current system of registration of telephones by jockeys should be changed. Jockeys who are members of the Jockeys Association of Great Britain (JAGB), and not all are, register their mobile phones with the Association which passes the details to the BHA. BHA is not sure how up to date this information is or how JAGB ensures that jockeys update the record when they change mobile phones. The IS&LD supplements the information on its own database with its own information, much of which is provided by the WRSOs. This is an unsatisfactory state of affairs. It needs to be a condition of a jockey's licence that he or she will provide up to date information of their mobile telephone details to the BHA.

**R 6 The Review Team recommends a number of changes to Rule 241 to assist investigations and to ease the difficulty of obtaining telephone records. We also recommend that jockeys are required to register their mobile telephone details with the BHA and keep them up to date.**



## **Rule 140B and Instruction F5**

- 6.30 The above rule refers to the use of mobile telephones, including any other appliance, apparatus, instrument or equipment capable of receiving or transmitting information, on the race course by jockeys, master jockey's valets, or master valet's assistants from half an hour before racing starts until the last race has started. The instruction defines when mobile phones may be used. It should be reviewed to include the other communication devices referred to in Rule 140B.
- 6.31 This rule is designed to protect the integrity of the sport by preventing the above people making telephone calls providing inside information or which could help cheating.
- 6.32 The BHA has not wished to completely prevent jockeys and their valets communicating with the outside world when they are racing. It is understood, for instance, that trainers may have jockeys at a number of race courses and may want to speak to them on the telephone. This is unlike the situation that prevails in Japan, Australia and Hong Kong where jockeys are not allowed to bring mobile telephones onto the race course. Most of those to whom the Review Team spoke thought a total ban would be disproportionate to the ill it was seeking to address. It was not thought that many jockeys were corrupt and it was felt that peer pressure from honest jockeys would usually be sufficient to prevent dishonest activity in the weighing room or the changing room.
- 6.33 WRSOs have been appointed to police the use of mobile telephones. They supervise the phone zones where calls may be made. Because of this supervision, the likelihood is that corrupt telephone calls would be made before arriving at the race course, although that could not apply to passing on inside information obtained after arrival. One WRSO told the Review Team that in the last year he had been responsible for three people being fined for using their mobile telephones in breach of the rules. In two cases, the WRSO did not think there was any corrupt intent and in the third case there was no reason to suppose that there was a corrupt purpose in the use of the phone. Whilst the

current system is expensive (with the employment of the WRSOs, although this is not their sole function) and complicated, the review team supports the BHA view that a total ban would be draconian and disproportionate. The suggested enhancements to Rule 241 would help to tackle the cases where there were concerns over mobile phone usage without penalising the majority who have no intention of doing anything wrong.

### **Rules 243 to 247 and Appendix N: Integrity Code of Conduct**

- 6.34 Rule 243 deals with the provision of inside information for reward and is dealt with in the section on prevention and deterrence (see para 9.1 et seq). Rules 244 et seq prohibit jockeys from betting or laying any horse to lose a race. They prohibit those who are in a position to have inside information or to influence the outcome of a race from laying a horse to lose. Laying horses has become an issue since the advent of betting exchanges which make it possible to win money when a horse loses. This has given rise to a kind of cheating which did not previously happen very often – cheating by ensuring that a horse does not win or is not placed. There are various ways of achieving this, one of which is for the jockey intentionally not to ride a horse to its merits (breach of Rule 157).
- 6.35 Over a period of time, the rules have been amended to clamp down progressively on those within the regulated community laying horses over which they have some influence or about which they have some knowledge. Most recently, resulting from the work on Inside Information, Rule 247 was expanded to include riders' agents. The work on Inside Information has sought to prevent those in a position of knowledge from passing on information which will enable others to obtain an advantage in betting. Most commonly, this would be knowing that a horse which was expected to do well will not do so, and laying it to lose. Appendix N was redrafted in 2007 to cover these issues and makes it explicitly clear that a breach of the Code of Conduct may result in disciplinary action being taken.
- 6.36 Many of those who spoke to the Review Team regretted the advent of 'laying' because of the incentive it gives for cheating. However, the feeling was that it was here to stay and that the BHA had to manage the consequences as best it

could. The Review Team considers that the Rules, together with the Inside Information initiatives, are laudable efforts to tackle this issue.

## **PENALTIES**

- 6.37 The penalties for breach of the Orders and Rules of Racing are reviewed every year. For certain breaches, there is an entry point near the mid point, of the maximum and minimum penalty. The penalty in any given case will increase with aggravating circumstances, and decrease with mitigating circumstances. Although in some other countries, for instance Australia, penalties for intentional non trier offences (Rule 157), and indeed penalties overall, are more severe, the Head of Discipline has told the Review Team that he believes that the penalties are high enough for a disciplinary panel not to feel they have inadequate powers. We agree.
- 6.38 As a result of the 2003 review, more serious penalties were imposed for intentional non-trier offences. The jockey will face a suspension of 21-42 days, with an entry point 28 days. Where a rider is found to be in breach of Rule 157, the trainer is deemed to be in breach of Rule 155(ii) (not giving instructions to the jockey to ensure the horse is run on its merits) unless he can prove otherwise. The entry point for this offence is £5000 and trainers can be fined between £3000 and £12000.
- 6.39 Relevant penalties (Rule 243 Information for reward etc) were increased in July 2007 to coincide with the launch of 'Inside Information'.
- 6.40 Recently, the Legal Review Group has made a number of changes. Previously penalties took too much account of precedent and not enough of the circumstances. From 1<sup>st</sup> January 2008 panels no longer consider similar breaches by others in determining the penalty. They do consider previous breaches by the accused person in determining the penalty.
- 6.41 Previously, only the defence addressed a disciplinary panel on penalty. From 1<sup>st</sup> January 2008, the prosecution also addresses the panel on penalty. Reductions in penalty for guilty pleas have also been formalised from that date.

- 6.42 One piece of work which remains outstanding for consideration by the Legal Review Group is plea bargaining. We consider that the development of an articulated policy on this topic would be beneficial to guide its application in appropriate cases.
- 6.43 Overall, the Review Team considers that the processes which the BHA has in place for penalties, including their periodic review, are suitable.

## **LICENSING**

- 6.44 The licensing function has recently been brought under line management of the IS&LD and has already been referred to in the paragraphs above. This is an ideal opportunity to consider the relationship between regulation, discipline and licensing. Control over the gateway to participation in horse racing is a powerful way of managing behaviour and contributing towards the integrity of the sport. It produces an end to end approach to regulation, starting at the point of entry and filtering out undesirable people from the beginning. This already takes place and licenses can be withheld because someone is not a fit and proper person. This may not involve a breach of the rules, but can be about life style and associations.
- 6.45 The Licensing Committee can conduct a hearing if they have concerns over whether someone is a 'fit and proper person', and give warnings. A paper dated 9<sup>th</sup> October 2006 recommended that this process be managed through the Interdepartmental Committee meetings held bi-monthly and chaired by the Director of Regulation and attended by the heads and other representatives of the Security, Disciplinary and Licensing Departments. In this way, warnings given by the Licensing Committee can interface with the Regulation Department and the Intelligence Unit.
- 6.46 It is important to note that, as a matter of law, although the licence provider need only afford limited rights to an initial applicant for a licence, once the renewal or forfeiture of licence is concerned, all of the rules of natural justice are fully engaged and the matter must be dealt with on a fully disciplinary basis. Therefore, the BHA must ensure that it has evidence based procedures in

place to deal with forfeiture or failure to renew and robust processes which will stand up to scrutiny. These are likely to be fully aligned to those used in discipline hearings and it is vital to ensure that such hearings are chaired by a legally qualified chairman.

- 6.47 Unfortunately the Rules and Orders of Racing seem to provide the BHA with authority to take an approach which is incorrect in law. Paragraph 1(a)(v) provides that every application for the renewal of any licence or permit shall be treated and regarded in all respects and for all purposes as if it were a first application by the applicant for such a licence or permit. Therefore, by the operation of this Rule the BHA seeks to have a renewals of licences dealt with as if they were the initial application for a licence.
- 6.48 Another related lacuna that we have identified is that while being a "fit and proper person" is a licence condition, and therefore can be dealt with by the Licensing Committee on renewal, it is not a continuing status, such that breach could amount to a disciplinary offence in its own right. Therefore, where a person can be demonstrated not to be a fit and proper person, while a licence may not be renewed (or may be sought to be revoked), it could not be immediately revoked (or otherwise dealt with) by the disciplinary process, which may provide a more suitable means to deal with the issue. Therefore, it is our recommendation that a continuing obligation be placed upon those involved in racing to be (and remain) a fit and proper person, breach of which could rise to disciplinary proceedings as well as to consequences for the continued existence of a holders licence.
- 6.49 The exchange of information and intelligence between the Licensing Unit, the Intelligence Unit and the Regulation Department is essential. It already takes place but should be reviewed and formalised. The Licensing Unit must check on what is known about every applicant before granting or renewing a licence or registration. It should be possible to attach additional conditions to licences when appropriate. If there is doubt over a particular person, a licence could be granted for a shorter than usual period and subject to periodic review. Where breaches of the codes of conduct, poor behaviour or other negative information come to light, the system of warnings could be enhanced. Receipt of warnings could affect how long a licence is renewed for or whether it is renewed at all. Previous

warnings could also be relevant as antecedents in discipline hearings or in a decision on whether or not to take disciplinary action.

**R 7 It is recommended that the role of Licensing as the gateway to the sport be strengthened and that procedures for the exchange of information and intelligence between Regulation, the Intelligence Unit and the Licensing Unit be reviewed. Full checks must be carried out before the grant or renewal of any licence or registration.**

It is also recommended that two changes be made to the Orders and Rules of Racing. First, we would propose that the second sentence of Part 1(a)(v)(a), which treats renewals of licences as if they were initial applications, be deleted as it does not reflect the current law. Indeed it is in direct conflict with it.

Secondly, we would propose a new paragraph (i) at Part 22, Rule 220 of the Orders and Rules of Racing. This would create an obligation on all persons who participate in racing to be fit and proper persons to do so at all times.<sup>5</sup> Consequently, if the BHA were to find that by virtue of past or present conduct or associations that a person was not such a person, this would also constitute a breach of the Rules and Orders of Racing and could be dealt with as a disciplinary matter.

In the longer term, if the Orders and Rules of Racing are revised as we have suggested, the obligation to be a fit and proper person might be more properly enshrined in the codes of conduct. A breach of the codes would be a disciplinary breach, whether or not there was any breach of a rule.

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<sup>5</sup>Our suggested wording would read as follows:

*"(i) All persons involved in racing shall be fit and proper persons to do so."*

## **7 THE DISCIPLINARY PROCESS**

7.1 Consideration of the disciplinary process forms part of the natural continuum of any review of the BHA's involvement in ensuring integrity in horseracing. This continuum starts with intelligence and investigation and ends in a disciplinary process which may lead to the imposition of sanctions upon participants in racing who breach the Rules. Therefore, it is to this process that we now turn.

7.2 Where a body such as a sports governing body discharges private disciplinary functions, it is important that certain elements of those functions are kept separate. If they are not, the confusion of functions can result both in operational inefficiency and in unfavourable judicial scrutiny. In the view of the Review Team, the disciplinary functions of the BHA involve four separate elements. These are:

- licensing;
- investigation;
- prosecution; and
- judicial determination.

We have already considered the issue of licensing (see Section 6), and in particular warned that there are dangers in allowing it to become a quasi-disciplinary function without the appropriate procedural safeguards. We would propose to examine each of the other elements in turn.

### **THE INVESTIGATIVE FUNCTION AND THE DISCIPLINARY PROCESS**

7.3 As the Review Team has commented in Section 6 above, it wholeheartedly supports the decision to bring licensing into the IS&LD, on the basis that it means that all material information should be available to the BHA when considering applications for the grant of licences and indeed whether they should be renewed.

- 7.4 It is, however, important to be clear about the investigative function and its limits. In the context of licensing, the function of the IS&LD is to collect information and investigate wrongdoing with a view to producing sufficient cogent information so as to either:
- provide the BHA with sufficient information so that it may decide whether it should grant a licence or renew an existing licence; or
  - provide information to the BHA which will allow it to decide whether or not a person or persons should be prosecuted for a breach of the Orders and Rules of Racing.
- 7.5 The IS&LD's function should not be to decide whether licences should be revoked or disciplinary proceedings commenced. It is to provide all relevant information and support to the licensing and disciplinary organs of the BHA to allow them to decide what action is to be taken.
- 7.6 It is also very important that the investigative and prosecutorial functions be kept separate. This is recognised in our own criminal justice system by the separation between the police and the Crown Prosecution Service. The reason for this is that there is an understandable tendency on the part of those investigating a case to become too closely involved with it, such that they may not be the most appropriate persons to decide whether a prosecution should be brought. Therefore, it is important that someone not involved in the investigation takes that decision in the light of their objective review of the evidence currently available, and of the standard that evidence will have to meet if such prosecution or action is to be successful.
- 7.7 In the context of the conduct of disciplinary proceedings, therefore, the Review Team recommends that the investigative and intelligence handling role conducted by the IS&LD be kept separate from the decision-making role of licensing and discipline. This requires no rule change, but simply the drawing up of Terms of Reference in a form that means that a person independent of the full investigation into alleged misconduct must decide upon whether any disciplinary action is taken.



## THE PROSECUTORIAL FUNCTION

7.8 It is the need for clarity of role and function regarding the prosecution function within the BHA that the Review Team would highlight as an area to address. In particular it is unclear:

- who has responsibility for the initial decision to prosecute in major cases;
- who has responsibility to run cases on behalf of the prosecution;
- who has responsibility to take key decisions that arise in the course of disciplinary proceedings.

7.9 Disciplinary cases within the BHA essentially fall into two categories. The first are race day incidents which fall under the primary jurisdiction of the stewards at each individual course. While the stewards will generally decide upon race day incidents, the person who is subject to discipline by the stewards has a right of appeal to the Disciplinary Panel of the BHA. Equally, the BHA has a right to refer to the Disciplinary Panel either matters not dealt with by the stewards or matters which have not been dealt by the stewards to the satisfaction of the BHA.

7.10 The second class of disciplinary matters are the more serious ones concerned with issues of integrity. The information giving rise to such proceedings will generally have either arisen from investigation by the IS&LD or been drawn to the attention of the IS&LD. All these cases are, by their very nature, serious, and cannot be the subject of the summary disciplinary procedures conducted by the stewards. These require treatment as serious matters and are dealt with in that fashion.

7.11 In relation to the first class of cases, the decision whether or not to refer a matter to the Disciplinary Panel is taken by Mr Nigel Macfarlane or designated individuals within the Disciplinary Department. On occasion, this may be after discussing the particular case with Sir Michael Connell. As these cases are essentially straightforward in nature (albeit of importance for the operation of the sport and the individuals concerned), little is needed by way of preparation. The papers are simply put together and presented to the Disciplinary Panel. As regards the second class of cases, it is unclear quite who takes the prosecutorial

decision. In his non-executive role as Director with responsibility for Racing Prosecutions, it would seem that Sir Michael Connell is, and has been for some time, responsible for this decision. He sees his role when asked to make this decision, as being one of deciding whether or not a prosecution should be brought. It is not his role, as he sees it, to initiate the mechanics of prosecution or to take it through the various procedural stages necessary to ensure that it is ripe for adjudication before the Disciplinary Panel. This is an executive function conducted by the BHA.

- 7.12 Mr Scotney, as head of the IS&LD, has an important role in whether prosecutions should be initiated. We have already referred above to the caution that should be exercised in allowing those involved with the investigative function to have too much influence over whether a prosecution should be brought. Equally Mr Codrington, the Legal Officer of the BHA has a key role in deciding whether or not to initiate prosecutions. His advice is sought in all integrity cases where prosecution is contemplated and frequently he obtains external legal advice from solicitors (generally Charles Russell) and/or leading and junior counsel as to what evidence would be necessary to support a prosecution and whether one should be initiated.
- 7.13 Taken together, the Review Team finds that processes have evolved over many years to create a general uncertainty as to who, in particular, is responsible for the decision to prosecute and who executes that decision through to the hearing before the Disciplinary Panel or Appeal Board. It is also true that there is no clear guidance as to who is entrusted with executing the prosecutorial decision, or with deciding on issues relating to the progress of a case, such as the penalty sought. Equally it is not clear who can take important strategic decisions that arise in the course of the hearing, including whether or not to consider or accept any form of plea bargain or whether to abandon individual charges if it is considered that they are unsustainable.
- 7.14 It would be wrong to expect Sir Michael Connell, in a non-executive role as a member of the Regulatory Committee, to discharge this function. It is our view that what is required is a constant input into the investigation by those who may be responsible for any subsequent prosecution, up to the point where the

decision to prosecute is taken, and indeed after, up to the time at which the disciplinary process is concluded. To conduct matters otherwise is to make the process slow, potentially burdensome, and expensive. It is clear that this demands constant action at an executive level, not the discharge of a non-executive function of the type that Sir Michael Connell has performed.

7.15 This by no means means that there is no need for non-executive oversight and an accountability mechanism. This would be the route through which the expertise and experience of individuals such as Sir Michael Connell is utilised. In these circumstances, the Review Team recommends that a new post be created, which we call the 'Disciplinary Officer'. The functions of the Disciplinary Officer would include:

- liaising with the IS&LD on the progress of disciplinary investigations;
- advising the IS&LD on evidence that needs to be collected to support any proposed disciplinary action;
- obtaining any external advice necessary in the course of the preparation of evidence for disciplinary proceedings;
- reviewing the dossier prepared by the IS&LD and taking the final decision (with appropriate consultation with external counsel, solicitors and other appropriate persons within the BHA) as to whether a prosecution should be initiated;
- being responsible for ensuring that all procedural steps are taken in the course of the prosecution and that all orders and directions made by the Disciplinary Panel are complied with;
- taking all necessary decisions that arise in the course of disciplinary proceedings (after taking either internal or external advice, or both) including the decision whether or not to accept any form of plea bargain offered;
- instructing external counsel or solicitors (if necessary) to present the BHA's case at the hearing;

- attending all major disciplinary hearings;
  - ensuring the execution by the other organs of the BHA of any decisions reached by the Disciplinary Panel or the Appeal Board;
  - dealing with any appeal from the decision of the Disciplinary Panel.
- 7.16 The Disciplinary Officer should report directly to the Chief Executive and be accountable through him and a specifically identified oversight group of non-executives. Such a role could be discharged by a person already within the BHA or by a new appointee. It is our very strong recommendation that such a person be lawyer.

## **JUDICIAL DETERMINATION**

- 7.17 The Review Team considers that the judicial organs of the BHA, being the Disciplinary Panel and the Appeal Board, are appropriately independent of the other regulatory organs of the BHA. The processes in themselves are clearly fair. The Review Team also considers that the Disciplinary Panel and Appeal Board are appropriately staffed by people with breadth of experience of horseracing and by lawyers of the highest calibre. Therefore, on a structural level, we have no recommendations to make about the composition of either panel.
- 7.18 Our one concern focuses on the procedure adopted for serious cases before the Disciplinary Panel. In particular, we are concerned that Disciplinary Panels do not assume quickly enough appropriate case management functions which would ensure the most efficient disposal even of the most complex cases. A recurring theme of the criticism we have heard is the time which cases take to reach a conclusion. Undoubtedly, considerable time is taken up in the investigation process which, as we have described above, is presently under-resourced. However, there is no doubt that some delay is occasioned by the course of the disciplinary proceedings before the Disciplinary Panel themselves.
- 7.19 What currently happens is that each Panel has a Chairman who holds a preliminary hearing (if the Chairman has decided to hold one) on the first Thursday after the expiry of 28 days from notification to the Respondent of the

charges. Although the Orders and Rules of Racing state that the Chairman can give directions in order to ensure the fair and expeditious conduct of the proceedings<sup>6</sup>, no guidelines are given as to the directions that should be given at that time. On the contrary, what follows in Appendix S Paragraph C is not guidance as to the directions that should be considered, but a summary and incomplete statement of the principles of the rules of natural justice that should apply to any hearing. This could just as happily be set out under a separate heading as the principles of natural justice (properly expanded) and all Chairmen of Disciplinary Panels made subject to an obligation to comply with them. As a statement of the directions that should be considered, it is inadequate.

- 7.20 If the Chairman of the Disciplinary Panel (in his sole discretion<sup>7</sup>) decides that a directions hearing is unnecessary, then a form is despatched to the Respondent in accordance with Paragraph E of Appendix S. The form requests the person subject to a charge to state whether he admits it, to what extent he admits the evidence of the BHA<sup>8</sup>, the nature of the case he intends to advance, the identity of any witnesses he intends to call and his time estimate as to the length of the hearing.
- 7.21 Unless the Secretary to the Disciplinary Panel otherwise determines, the form is completed and delivered to the Disciplinary Department within 21 days of receipt, or at least 10 days prior to the date fixed for the commencement of the inquiry<sup>9</sup>, whichever is the earlier. While pausing to query why the Secretary to the Disciplinary Panel should have any power to impose time limits, it is apparent even from these time limits that serious delays are built in to the disciplinary process from the time the charge is brought, even before the Respondent to a charge is required to indicate his attitude to it. It is also clear from this provision that the form may be received less than 10 days before the hearing of the

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<sup>6</sup>Appendix S, paragraph C, page 349 Handbook.

<sup>7</sup> There do not appear to be any provisions allowing the Respondent to a charge to request a directions hearing.

<sup>8</sup> As a sign of how out of date the current Appendix S is, it continues to refer to the HRA.

<sup>9</sup> Confusingly, a hearing by the Disciplinary Panel is called an "inquiry". It is not. It is a hearing. It would be less confusing were the proper terminology to be adopted.

charge. If any contentious material is contained therein, this is likely to necessitate the adjournment of any hearing. This cannot be satisfactory.

7.22 From the above it is clear, therefore:

- that directions hearings are only held if the individual Chairman of the Disciplinary Panel decides that they should be;
- that there are no meaningful standard directions;
- that in the absence of a directions hearing a form is submitted;
- there is no indication of the standard form of the Charge itself or of the material that should accompany it;
- that the form sent by the BHA at present can be returned as little as 10 days before the substantive hearing, which can necessitate unnecessary adjournments.

7.23 In our view, this represents poor case management. The appropriate manner in which these more serious cases should be dealt with is that as soon as the charge (which should be accompanied by all evidence upon which the BHA seek to rely in support of it) is laid, the Respondent to the Charge should be informed that Directions will be made within seven days of receipt. The procedures at Appendix S should contain standard directions, being matters which must be agreed between the BHA and the Respondent to the Charge or decided by the Chairman of the Disciplinary Panel.

7.24 The directions would set a timetable for the disposal of the matter, starting with service of the Defence by the Respondent to the Charge and including a schedule for the service by him of evidence in support of his Defence. Any requests for disclosure by the Respondent to the Charge should be made at that time, although there should always be liberty to apply for disclosure (by either party) in circumstances where the development of the case warrants it.

7.25 At the time at which directions are agreed, so should the date of hearing, based upon initial time estimates. That way, it should be possible to work backwards from the date of a hearing to put in place the relevant procedural steps.

7.26 In this way, we consider that the function of the Disciplinary Panel in dealing with more serious cases can be speeded up and the complaints that have been made may be addressed.

**R 8 In conclusion, the Review Team recommends the following:**

- that the investigative, licensing, prosecution and judicial functions be kept discrete (specifically, that the investigative and intelligence handling roles be kept separate from decision making on grant and renewal of licences and institution of disciplinary proceedings);
- improved processes for decision making on prosecution and for managing the disciplinary process, with the appointment of a Disciplinary Officer, who should be a lawyer;
- quicker and improved management of cases which are to be prosecuted;
- that the Disciplinary Procedures set out in Appendix S of the Orders and Rules of Racing be amended to reflect the revised processes for case management.

## **8 CITY OF LONDON TRIAL: KEY LESSONS**

- 8.1 In accordance with its Terms of Reference, the Review Team has been asked to consider the role and procedures that racing and sports governing bodies should adopt in dealing with matters involving the criminal law, in the light of the criminal proceedings brought by the Crown against Messrs Rodgers, Fallon, Williams, Lynch and others. Having done so, the Review Team considers that there are a number of lessons to be learnt from the BHA's handling of the Rodgers case. In order to put these lessons into context, it is necessary first to set out a brief history of the BHA's involvement in that case. It should be emphasised at the outset that the purpose of this review is not to examine the course or conduct of the criminal trial, or to seek to critique the outcome. It is no part of this review to seek to apportion blame. Rather, it is to seek to examine if lessons can be learnt from those proceedings. It is against this background that the facts will be analysed.

### **FACTS**

- 8.2 The criminal trial has become known as the 'Kieren Fallon trial', although Mr Fallon was only one of a number of defendants and he was not a part of the Jockey Club investigation. The circumstances which led to the case first came to the attention of the then Jockey Club's Security Department in December 2002. Mr Miles Rodgers was suspected of using inside information to engage in corrupt betting activities. An investigation was commenced within the Security Department. On 10 December 2003, Mr Rodgers was interviewed by Jockey Club investigators, but denied having a Betfair account and any wrongdoing.
- 8.3 On 22 December 2003, Mr Paul Scotney, the then newly appointed Director of the Security Department and Mr Ben Gunn, a former Chief Constable and the then non-executive director of the Jockey Club responsible for security issues, met with the Commissioner of the City of London police, Mr James Hart. The purpose of this meeting was confirmed in a subsequent letter from Mr Scotney to



Mr Hart dated 23 December 2003, in which Mr Scotney stated: "*As you know, our main concern is to what extent the Police Service will become involved in the investigation of suspected criminal offences in Racing. You kindly allayed our fears by offering us the option of discussing individual cases with Detective Chief Superintendent Steve Wilmott. This would enable us to have a clear steer on whether the matter is appropriate for the Police and, if it is, an indication as to which Force would be most appropriate to deal with it.*"

8.4 On 29 December 2003 and 19 March 2004, following the Security Department investigation, Mr Rodgers was charged by the Jockey Club with laying horses owned by Platinum Racing, a company of which he was a director. During this period, the Jockey Club received information from Betfair that heightened its concerns that Mr Rodgers was using a number of 'host' accounts to mask his betting activities. Indeed, intelligence indicated that in spite of being the subject of disciplinary proceedings, he may have been subverting jockeys to influence the outcome of races. The Review Team understands that at this time, Mr Scotney discussed the case with Mr Gunn. Notwithstanding that the Jockey Club's disciplinary procedures had not been exhausted, Mr Gunn took the decision that the case should be referred to the police as an allegation that a serious crime had been or was being committed, being fraud, or conspiracy to defraud the customers of Betfair.

8.5 Mr Gunn met with the then Commissioner, Mr Hart, in late February 2004. According to Mr Gunn, the rationale for referring the case to the police was as follows:

- Mr Rodgers was already under active investigation by the Security Department of the Jockey Club for suspected serious breaches of the Rules of Racing and suspected corrupt betting activity;
- The suspected activity involved potential serious criminal offences of fraud as well as possible disciplinary offences against the Orders and Rules of Racing;

- In spite of being involved in current disciplinary action, Mr Rodgers was believed to be continuing to subvert jockeys and other licensed persons to enable him to lay horses to lose on Betfair;
- The powers of investigation available to the Jockey Club at that time were very limited in respect of the sort of offences that were suspected of Mr Rodgers;
- The investigation of crime is wholly a matter for the police.

8.6 Mr Gunn has confirmed his understanding that the Jockey Club and its successor bodies, the HRA and the BHA, played no part in the decision to prosecute, or in the preparation of the case, or its presentation at Court. This was confirmed to the Review Team by two of the BHA's key legal advisors, Mr Mark Warby QC and Mr Patrick Russell who, despite their in-depth knowledge of the BHA's Rules and its disciplinary procedures, were not consulted by the City of London police either on the decision to prosecute or on the preparation of the case.

8.7 Mr Scotney has also provided a chronology of contacts between the City of London police and the Jockey Club, after the decision to involve the police was taken. Mr Scotney first met with Detective Chief Superintendent Wilmott (who had been appointed by the Commissioner as the senior investigating officer on the case) on 10 March 2004, and provided him with a briefing sheet on the activities of Mr Rodgers. A further briefing sheet was provided to DCS Wilmott on 27 March 2004, (two days after the Disciplinary Panel of the Jockey Club had declared Mr Rodgers a Disqualified Person for two years). Between April and September 2004 (the precise dates have not been recorded), Mr Scotney had several further meetings with DCS Wilmott and other police officers. The information flow was at all times one-way. The purpose of these meetings was for Mr Scotney to provide information requested by the police. The police did not share any information regarding the case with Mr Scotney or with anyone else at the Jockey Club. In particular, the prosecution took a unilateral decision to use a race-reader from Australia, Mr Ray Murrphy, as their expert witness. The Jockey Club was not consulted on this decision and, when they were informed of it, expressed misgivings.

- 8.8 In September 2004, the City of London police made their first arrests. Neither Mr Scotney nor any other person within the Jockey Club had any advance warning of the timing of the arrests or who was likely to be arrested.
- 8.9 Sometime later, on 2 July 2006, Messrs Rodgers, Fallon, Lynch, Williams, Berry and various others were charged with conspiracy to defraud Betfair customers. The HRA was not consulted on the nature of, or given any advance details of, the proposed charges.
- 8.10 On 7 July 2006, the HRA convened a Special Licensing Panel, chaired by Sir Michael Connell, an ex High Court Judge and Independent Director of the BHA's Regulatory Committee with special responsibility for advising on legal matters, to consider licence applications from Messrs Lynch, Williams and Berry (whose licences had automatically expired when they were charged). The Panel also sat to consider whether Mr Fallon could continue to ride in Great Britain on his Irish licence. Mr Berry was granted a licence. Messrs Lynch and Williams were not, but were compensated for this at the standard rates set by the Professional Riders Insurance Scheme. Mr Fallon was suspended from riding in Great Britain until the conclusion of the criminal trial. Mr Fallon's subsequent appeal to the Appeal Board of the HRA was dismissed following a hearing on 13 July 2006, as was his appeal to the High Court on 28 July 2006.
- 8.11 On 24 September 2007, the criminal trial began at the Old Bailey. Five HRA employees, Mr Scotney, Mr John Gardner, an Intelligence Analyst in the IS&LD, Mr William Nunneley, Senior Stipendiary Steward, Howard Robinson, Veterinary Officer and Ms Rachel Tonks, Stipendiary Steward, gave evidence at the trial. The BHA had no other involvement in the trial, and in particular was not consulted at any time on the nature of the case that was to be advanced by the prosecution. On 7 December 2007, following a half time submission, Mr Justice Forbes directed the jury to deliver a verdict of not guilty against all the accused.
- 8.12 The BHA and its officials have been subject to criticism, both from within the industry and the press, as a result of the collapse of the trial. The public perception is that the CPS, the City of London police and the BHA were all responsible in part for the collapse of the case. In particular, the BHA has been

criticised for its lack of involvement in a case which was at the heart of the regulation of horseracing in Great Britain.

8.13 The factual conclusions that the Review Team has drawn from the above are as follows:

- i. The Jockey Club took the decision to refer the Miles Rodgers case to the City of London police, notwithstanding that its own disciplinary procedures were in motion and at that time had not been exhausted;
- ii. The Jockey Club's primary rationale for this decision was that the case involved potential serious criminal behaviour, which was ongoing, and which the Jockey Club did not have sufficient investigative powers to deal with;
- iii. Once the case had been referred to the police, the Jockey Club's/HRA's/BHA's only role was to provide information to the police at infrequent intervals when requested to do so. Even if it had wanted to do so, it would not have been allowed any participatory role;
- iv. The Jockey Club/HRA did not receive any information from City of London police which might allow the either body to progress its disciplinary enquiries;
- v. No disciplinary enquiries continued and no proceedings were commenced against the defendant jockeys in relation to the wrongdoing alleged in the criminal charges;
- vi. The Jockey Club/HRA had no involvement in the conduct of the investigation, the decision to prosecute, the evidence on which the case was based or the preparation of the case for trial. By the time of the trial the HRA had become the BHA. The BHA's role at the trial was limited to four of its employees giving evidence on relatively non contentious matters.

## ANALYSIS

- 8.14 From the BHA's perspective as a regulator of sport, the events documented above have been highly unfortunate. The Review Team is satisfied that the decision to involve the City of London Police taken by Mr Gunn in 2004 was right in the circumstances, particularly as at the time the Jockey Club was not aware that it might have the ability to utilise Norwich Pharmacal Orders<sup>10</sup> to obtain information from third parties about wrongdoing and the Jockey Club had not yet entered into a Memorandum of Understanding with Betfair which would allow it to analyse betting patterns in the manner necessary to properly investigate the alleged misconduct.
- 8.15 It is also true that Mr Rodgers was beyond the disciplinary jurisdiction of the Jockey Club, as he enjoyed no license from it. Indeed, all that could be done to Mr Rodgers was to warn him off. Such a sanction is a relatively weak one against a non-participant in the sport, as non-participants do not need access to racecourses to conduct their nefarious activities. In those circumstances, Mr Gunn's actions in referring the matter to the City of London police appear to us to have been fair and reasonable. Indeed, there is little else he could have done at the time.
- 8.16 From the time the police investigation began, all disciplinary investigation ceased, as the then current thinking was that to continue disciplinary proceedings would prejudice the criminal process, which, of necessity, enjoyed priority. The BHA had no substantive input into the criminal process, despite its expert status as the regulator of horseracing. Some three years passed from the time the Miles Rodgers file was handed to the City of London police to the time of the trial. In the meantime, high profile arrests were made which damaged the reputation of horseracing, and acquittals resulted, which also damaged the reputation of the

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<sup>10</sup>Deriving from the case of *Norwich Pharmacal v. Customs & Excise* (1974) AC 133, where it was held by the House of Lords that there was jurisdiction for the Court to order disclosure from third party "facilitators" of evidence implicating tortfeasors, despite the fact that no wrongdoing was alleged against the facilitator. The jurisdiction can be used to obtain evidence from telephone companies and bookmakers.

BHA as the regulator of horseracing, although its role in the proceedings was tangential, at best.

- 8.17 In adopting the approach that once criminal authorities are involved, all disciplinary inquiries and proceedings must cease pending the outcome of process, the BHA was hardly alone amongst sports governing bodies. In football cases, any announcement of a police investigation into on-field or off-field matters has meant the suspension of disciplinary inquiries and proceedings. However, in the light of the collapse of the City of London proceedings, it is clear that all sports governing bodies must investigate new approaches to regulating their sports.
- 8.18 Consequently, it is the widespread view of all of those the Review Team interviewed, not just that the criminal justice system is an inefficient and inadequate means by which to seek to regulate horseracing, but that the regulation of malpractice in horseracing can be better performed by the BHA than by external criminal prosecution agencies. This view is shared by the Review Team. This is no criticism of such agencies, as it is not their role to regulate horseracing. The question this poses is whether it would be practically possible for the BHA to continue its disciplinary proceedings after the point at which it is suspected that criminal misconduct has taken place. In order to answer this question, it is necessary first to analyse the law on this point.

## **LEGAL ANALYSIS**

- 8.19 Given that the BHA may in future want to pursue its disciplinary investigations and proceedings despite the fact that criminal offences may have been committed, the question is whether there is any legal impediment to its so doing.
- 8.20 The first question is whether the BHA is under any legal duty to report any evidence of criminal wrongdoing to the criminal authorities. The short answer is no. Since the felony of misprision was abolished by the Criminal Justice Act 1967, no criminal sanctions can be imposed upon a person for failing to report to the authorities facts which may amount to the commission of a criminal offence. Of course, if pursuant to their powers of investigation the police request

information, and that request is backed by appropriate orders, such information must be provided. Equally, a person may not obstruct the police in the execution of their duties or pervert the course of justice. However, the fact remains that without an inquiry and a request from the police there is no stand-alone legal duty (as opposed to moral duty) to inform the authorities of those facts.

8.21 This does not mean that the Review Team is recommending that material be withheld from the police or the Gambling Commission. On the contrary, it is anticipated that pursuant to a Memorandum of Understanding, the BHA will share information regularly with both the police and the Gambling Commission so that they are fully apprised of the matters with which the BHA is concerned (see Section 5). However, in the absence of a request by the criminal authorities, it is under no obligation to do so.

8.22 The second question is whether a disciplinary inquiry or disciplinary proceedings against a person can be commenced or continued in circumstances where that conduct may also amount to a criminal offence. The broad answer is that there is no rule of law that provides that merely because criminal proceedings are contemplated or have begun (or indeed that civil proceedings are contemplated or have begun) private disciplinary proceedings must be stayed pending the outcome of those proceedings. On the contrary, the courts have held that there is a substantial public interest in such disciplinary proceedings continuing unhindered. On the issue of whether private disciplinary proceedings should be stayed pending civil proceedings, Hirst LJ said<sup>11</sup>:

*"The power to intervene should be most sparingly exercised and ... it is only in exceptional cases that the disciplinary process (to which the Institute rightly attaches great importance in public interest) should not be allowed to go ahead unhindered."*

Therefore, the policy bias of the courts is to allow disciplinary proceedings to continue, notwithstanding the existence of concurrent civil or criminal proceedings.

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<sup>11</sup> R -v- Institute of Chartered Accounts in England & Wales ex parte Brindle and Others [1994] BCC 297

- 8.23 The question this poses is when will the courts intervene to stay disciplinary proceedings, such as those that would be brought by the BHA? In essence, unless a party seeking a stay can show that if a stay is refused, there is real risk of serious prejudice which may lead to real injustice in one or both the proceedings, a stay must be refused.<sup>5</sup> Even if prejudice can be demonstrated, this is not the end of the matter. Even if there is a real risk of such prejudice, the court still has to balance that risk against other considerations. These considerations will almost always include a strong public interest in seeing that the disciplinary process is not impeded. Therefore, even if prejudice can be shown, there remains a presumption in favour of allowing the disciplinary proceedings to continue. Finally, in a case where such a balancing exercise is carried out, the court will give great weight to the view of the tribunal in considering whether a stay should be granted (in this case this would be the Disciplinary Panel of the BHA), although the court's view is determinative.
- 8.24 As can be seen, the development of the jurisprudence on the issue of whether it is permissible for disciplinary proceedings to be pursued concurrent with civil or criminal proceedings is relatively recent. The decision in which the key factors governing this issue are drawn together is the decision of Mr Justice Burnton in *R v The Executive Council of the Joint Disciplinary Scheme* [2002] EWHC 2086. Therefore, those at the Jockey Club/BHA who had assumed the primacy of criminal proceedings can be forgiven for not knowing that the law on disciplinary proceedings had progressed in the way that it has.
- 8.25 There is, therefore, no legal principle that prevents the BHA from investigating misconduct, or from commencing or continuing disciplinary proceedings against a person subject to the Orders and Rules of Racing, notwithstanding that there is a risk that criminal or civil proceedings may be brought, or indeed in circumstances where they have already been commenced. The only question is whether that person would be prejudiced in the other proceedings by the continuance of the disciplinary proceedings. As the subject matter of a BHA charge is entirely different from that brought by the Gambling Commission under Section 42, or by the Crown Prosecution Service under statute and common law, it would be difficult for any person so placed to argue that such prejudice exists, against a background where the case law emphasises the primacy and



importance of private disciplinary proceedings. There is, therefore, no intrinsic legal impediment to the BHA conducting itself in this fashion, although every case must be analysed on its own facts.

## **CONCLUSION**

- 8.26 In conclusion, the Review Team recommends that going forward, the BHA should continue to investigate and prosecute breaches of the Rules of Racing, notwithstanding that such breaches may also involve breaches of the criminal law. As Sir Michael Connell, pointed out, all attempts to influence betting potentially involve breaches of the criminal law. The charges that may be laid by the BHA are different from the charges that may be laid by the police if it is suspected that a criminal offence has occurred, and require different evidence, even though the circumstances that are the subject of the investigation may be similar. The BHA is entrusted primarily with protecting the integrity of horseracing, not with investigating and prosecuting criminal offences.
- 8.27 The Review Team is fortified in its view by the fact that the powers of investigation now available to the BHA are more extensive than those apparently available at the time when Mr Rodgers' case was referred to the City of London police. Not only are Norwich Pharmacal Orders available, but there is also a Memorandum of Understanding with Betfair, which means that Betfair is able to share data on suspicious betting patterns with the BHA. In addition, the Gambling Commission have been granted statutory powers which may also yield information useful to the BHA, pursuant to a Memorandum of Understanding between the BHA and the Gambling Commission. In these circumstances, therefore, the sources of information available to BHA appear to be adequate for it to discharge its regulatory functions.
- 8.28 The BHA has an overriding need to move more swiftly to protect the integrity of horseracing. While it fails to act or does not act, the integrity of horseracing may be subject to continuing damage. The BHA cannot allow its obligation to maintain the integrity of the sport to be compromised by the timetabling demands of a criminal prosecution, as the objectives of the BHA as the regulator of

horseracing, and the objectives of criminal authorities, whilst in many ways complementary, are very different. Therefore, in all but the most exceptional cases, breaches of the Rules of Racing should be investigated and prosecuted by the BHA.

- 8.29 There must, of course, be circumstances in which the BHA will cede its disciplinary powers in favour of the criminal authorities, be it either to the police or the Gambling Commission. Many people have commented upon how difficult it is to draw the line. Although the task is difficult, the Review Team considers that it is not impossible.

**R 9 The Review Team considers that the BHA should investigate and prosecute alleged breaches of the Rules and Orders of Racing notwithstanding that this conduct may amount to a criminal offence, subject to the exceptions set out below. The only circumstances in which disciplinary matters which are under investigation by the BHA should be remitted to the police or the Gambling Commission for consideration for criminal investigation are:**

- where the disciplinary powers of the BHA are so inadequate in an individual case that the evidence necessary to prove the charge cannot be obtained, or the penalty would be ineffective;
- where the conduct disclosed to the BHA concerns substantial non-racing or non-betting matters of a serious nature;<sup>12</sup>
- where the disciplinary panel, appeal board or the Board of the BHA recommends such a step at the conclusion of disciplinary proceedings.

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<sup>12</sup> E.g. threats of violence, intimidation or blackmail.

## **9 PREVENTION AND DETERRENCE: THE REGULATED COMMUNITY**

- 9.1 The initial approach of the IS&LD following the 2003 review focused heavily on detection and prosecution as the major deterrent. Having achieved success in this area, the Director of the IS&LD has begun to broaden his approach to prevention and deterrence. A major initiative was the work on Inside Information which reported in July 2007. The incumbent of the recently created post of Security Operations and Project Manager has undertaken responsibility for much of this area of work which she is pursuing energetically. There are a number of excellent initiatives, but they are stand alone rather than contributing to a strategic whole. The IS&LD would benefit from a more structured, planned and co-ordinated approach. This could be achieved by having a prevention and deterrence plan which sits within its strategy.

### **INSIDE INFORMATION**

- 9.2 Throughout 2006 the BHA engaged in lengthy industry wide consultation about how inside information should be dealt with, involving representative bodies for trainers, jockeys, owners, bookmakers, exchanges and journalists. The main objectives of the Working Group were to agree a definition of 'inside information' and consider what is and is not acceptable use, as well as reviewing the rules and the general approach to tackling these issues.
- 9.3 There is a massive amount of information flowing inside horseracing. The Working Group was clear that this is not a problem in itself, but that there is a need for people in the industry to understand what is and is not acceptable use of that information, and where to go for guidance. Passing inside information for reward is not acceptable. Passing inside information, even without reward, could also be a serious matter if it is used for a corrupt betting purpose.
- 9.4 The Working Group considered this issue against the backdrop of increased opportunity to profit particularly from negative information through betting

exchanges. As a general principle, passing negative information about a horse's likely performance outside the horse's connections (being the owner, the rider and the trainer and other closely associated persons) is not acceptable.

9.5 The Group strongly endorsed the need for rules, disciplinary action and sanctions to prevent and deter anyone seeking to profit from using inside information for corrupt betting purposes. It recommended that a number of changes should be made, particularly to introduce a focus on training and education to complement the deterrence and detection work.

9.6 Inside information is defined as *'information about the likely participation or likely performance of a horse in a race which is known by an Owner, Trainer, Rider, Stable Employee or their Service Providers as a result of acting as such and is not Information in the Public Domain'*.

9.7 Following on the Review, the BHA undertook to:

- Change Rule 247 so that jockeys' agents are now prohibited from laying horses to lose ridden by a jockey they represent. (This has been done.)
- Amend the wording of Rule 243 so that persons other than those licensed or registered by the HRA are more clearly caught within the wording of the Rule. Previously it referred to licensed or registered persons. It now says: *"No person shall communicate Inside Information directly or indirectly to any other person for any material reward, gift, favour or benefit in kind."*
- Produce a revised Code of Conduct to provide guidance about the general standards to be observed by all Licensed, Permitted and Registered Persons with an Annex which is a guide on what constitutes acceptable and unacceptable uses of Inside Information. This work is complete and the new Appendix N to the Orders and Rules of Racing has replaced the previous Codes laid down in Appendix N, T and U.
- Look to formalise arrangements to ensure that anyone within the betting industry found to be posing a threat to racing is removed from the industry. As a result, both the Traditional Bookmakers and the Betting Exchanges have agreed in writing that they will consider preventing anyone from betting or entering their premises if they are considered to pose a threat to the integrity of racing.

- Ensure the application of the requirements to inform the Racing Calendar Office at Weatherbys as soon as practicable of non-participation of horses, with speedy dissemination to the betting industry. (This is in order to reduce opportunities to cheat in the ante post market.)
- Agreement with the Horserace Writers and Photographers Association (HWPA) to introduce a code of conduct for journalists, with tough penalties for the misuse of Inside Information. While a Code of Conduct has not yet been introduced it has been agreed with the HWPA that consideration will be given to suspension of HWPA membership of any member who misuses inside information.

9.8 The HRA Board also announced that it would:

- Set up an ongoing monitoring group under the Director of IS&LD, involving cross-industry representation, to make sure that the education programme is working and address issues relating to the penalties for misuse of Inside Information. This group have been established and new penalties have been introduced.
- Consider the Rules as to what information has to be put into the public domain, and when. Veterinary treatments, fillies and mares in foal and in season, and horse's weights are some examples of what will be considered.
- Look again at the circumstances in which it is acceptable for those within the industry to lay a horse to lose. One issue to address is owners backing other horses in a race in which they have a runner, particularly where the horses are with the same trainer. (Appendix N, Integrity Code of Conduct has been amended and now says that owners should refrain from laying any horse from a yard where they have a horse in training. Rule 247, however, has not been correspondingly amended.)
- Revisit the criteria for deciding on whether a person is "fit and proper" to hold a licence to participate in the sport. New guidelines have now been introduced.
- Encourage the betting industry to formalise arrangements to ensure that any person excluded from racing cannot enter bookmakers' premises or

bet with them. Both Betfair and the bookmakers have procedures in place to exclude individuals where there is evidence of corrupt betting. No formal arrangements have been put in place between the BHA and the betting industry.

- 9.9 The BHA committed to a training and education programme which would involve:
- Inclusion of specific modules in Jockeys' and Trainers' training courses.
  - Production of an interactive training presentation and video, with web access.
  - Publication of guidance for trainers, jockeys, stable staff and owners setting out what is and is not acceptable.
  - A series of seminars and presentations to licensed and registered persons, to be repeated regularly. Forty seven seminars are planned for 2008 aimed at owners, trainers and stable staff.
  - Guidance through racing publications. Various articles have appeared in the Racing Post, Owner and Breeder Magazine, the National Trainers Federation newsletter to raise awareness of the programme.
  - Exploring the option of establishing a mentoring system for those entering the industry (for example, Apprentice Jockeys being allocated a senior Jockey as point of contact as and when required). This is being explored with the Professional Jockeys Association.

## **EDUCATION**

- 9.10 The education programme has been proceeding apace. It is intended to leave people in no doubt about what Inside Information is, when giving it is wrong, and the disastrous consequences of doing so. The intention is to disseminate this across the regulated community by delivering the programme at the point of entry through training, and to those in the system through seminars.
- 9.11 An impactive and user friendly pocket sized leaflet has been produced and widely disseminated. It is pitched at stable staff and jockeys. It is recognized that another slightly more sophisticated product needs to be developed for owners and trainers. Consideration should be given to translating the leaflet into the common languages spoken on the yards: in particular Polish, the appropriate

languages from the Indian sub-continent and Brazilian. The National Association of Stable Staff could play a part in its dissemination.

- 9.12 A very professional interactive training presentation and video has been produced. Material is also displayed prominently on the BHA website. Jockeys have to attend a training seminar every other year, with flat jockeys attending in one year and jump jockeys in the alternate year.
- 9.13 Seminars to other members of the regulated community have not yet taken place, although a considerable number are planned for 2008. Health and Safety seminars are run for all trainers and permit holders for a half day about six days a year. They are not mandatory, but should be, to allow an integrity input. Also, the NTF (National Trainers Federation) holds regional meetings. The Integrity input could be given there. The Review Team had the impression that there was scope for improving the relationship between the BHA and the NTF and developing good liaison at all levels. The relationship between the BHA and the trainers is not only important on its own account, but the trainers oversee the very large body of stable staff. Conveying messages to the trainers is one of the ways of getting those messages to the stable staff. Others who would benefit from the programme are people such as jockey's valets and agents. Accessing the owners effectively is not easy. A seminar is held in London once a year, but it is not mandatory and is poorly attended.
- 9.14 The programme has been developed most professionally and this is to be commended. Roll out has been prioritised and it is being delivered to the jockeys, a manageable group which is considered to be the most vulnerable.

## **TRAINING**

- 9.15 When new entrants who are to be licensed or registered undergo training, this is an appropriate time to educate them on integrity and the codes of conduct, rules, orders and instructions which are relevant to them. A strategic overview of the content and standard of all training courses for those in the regulated community would ensure that the content is congruent with the strategic objectives of the BHA. It would also help the BHA in its efforts to deliver excellence in the sport.

- 9.16 In reality, there is considerable dislocation. The Head of Industry Recruitment and Training for the BHA is responsible for industry training (not the training of BHA staff, which is the responsibility of the BHA HR Department). Her function falls within in Corporate Services. Her role in training is to work with BHEST (British Horseracing Education and Standards Trust which is the industry training design and standards body, funded through the Levy) and other bodies in the industry to make sure that appropriate training is delivered for the people in the industry. She is responsible for developing a training and development strategy for the industry.
- 9.17 There are two racing schools: the British Racing School and the Northern Racing College. They are educational charities with trading arms. The training they provide is mainly funded through the Levy Board. Some funding comes via deductions from prize money and there is a small amount of self funding and commercial sponsorship.
- 9.18 There is a history of conflict between the two colleges and they are not consistent in the training which they provide. However, the Review Team has been told that one of the training providers has been quite dominant and controlled the syllabus for their school.

### **Jockeys**

- 9.19 Jockeys must attend a five day course at one of these two training establishments, as well as some mandatory continuation training. Stipendiary Stewards and Stable Inspecting Officers provide input on the rules which includes an element on Inside Information.

### **Stable Staff**

- 9.20 The two colleges also deliver the Foundation Apprenticeship NVQ Level 2 for stable staff. The course lasts 9 to 13 weeks, then the apprentice works in a yard and the assessor comes to the yard for remainder of the apprenticeship to check on progress.
- 9.21 The colleges also deliver advanced apprenticeships NVQ3. It is not compulsory for stable staff to complete an apprenticeship, unless they are under 19 (with



some exceptions) in which case, under Rule A5, they must go to one of the approved centres.

- 9.22 There are two other training establishments, being Haddon Training Ltd and Warwick College, which deliver the NVQ2 for stable staff by way of day release. Funding is from government sources, not horseracing sources. The syllabus is primarily driven by the educational framework for the NVQ. The BHA does not control the syllabus but the courses are approved by BHEST.
- 9.23 The British Racing School and Northern Racing College provide additional input over and above what BHEST requires, including life skills and relevant rules of racing. The stable staff receive the same BHA inputs as the jockeys. It has been suggested that there could be industry funding of Haddon Training Ltd and Warwick College to enable them to provide this additional input.

### **Trainers**

- 9.24 New trainers attend a mandatory one week course (Module 1 Race Horse Care and Management) held at Newmarket at the British Racing School. Module 1 is run four times a year and there is an input from a Stable Inspecting Officer which includes input on Inside Information. There are two further one week courses. Module 2 is not mandatory and focuses on business management. Module 3 is compulsory and is concerned with staff management. From 2008, the Northern Racing College will provide modules 2 and 3. The modules were developed ten years ago and are not believed to have had any major update in the last few years. The Head of Industry Recruitment and Training is of the opinion that the course needs modernising to produce trainers of the standard required by 21<sup>st</sup> century employers. She thinks that some of Module 1 could be carried out by distance learning and that Modules 2 and 3 need to be more demanding.

### **TRAINING ISSUES TO BE ADDRESSED**

- 9.25 Training in horseracing seems to have grown organically. The training schools have been quite self determining in deciding what to put on their syllabus, and the two colleges do not have a consistent approach. The IS&LD has determined the content of the training they deliver which is relevant to its work, without

- consultation with the Training Unit. The same applies to the content relevant to the Licensing Department. There is no monitoring of standards of delivery, and different IS&LD staff deliver varying content to different standards. The gateways for entry to courses are not in place, with variable levels of student arriving on courses, their attendance having been determined simply by nomination by a trainer. There should be minimum standards which must be met prior to attending a course.
- 9.26 The Head of Industry Recruitment and Training is clear that the whole approach to training must be professionalized. In the first place, there must be a training needs analysis to determine what the different categories of people need to know in terms of technical skills, technical knowledge, with a behavioural element about proper conduct and need for integrity.
- 9.27 Courses should then be designed, with the syllabus determined by the training department in consultation with the relevant experts including those in the IS&LD. The syllabus would be kept centrally and be subject to regular review and updating. Those delivering training would be accredited and what and how they deliver would be monitored.
- 9.28 The Head of Industry Recruitment and Training and the Head of Security Operations and Project Manager are of the same view and are in communication. For the first time they have liaised over the Inside Information programme.. They will review and update the content of other training.
- 9.29 A paper entitled 'Review of Specialist Courses (Jockeys and Assistant Trainers)' has been produced which identifies many of these issues and recommends some ways forward. It says that the courses have evolved rather than been strategically managed to meet an industry plan.
- 9.30 There are some resource implications in taking on training needs assessment, syllabus control and course design. The Head of Industry Recruitment and Training is currently supported by an interim training and development member of staff, and it may prove appropriate to make the post permanent.
- 9.31 The IT system used to keep training records has limited functionality and is believed to date from around 1986. It is maintained by Weatherbys and cannot

be accessed remotely. The Head of Industry Recruitment and Training has an access database which she updates monthly from the register.

- 9.32 She believes that the BHA should procure a new system which should be a learning management system as well as a nominal roll. It would capture status changes, eligibility, and send information automatically to others who need it. Subject to appropriate security protocols such as PIN protection, inputting could be streamlined as users such as racehorse trainers could access their own stable staff's records and update the database themselves, rather than having to send in a paper notification which then has to be inputted by staff at the BHA. The IT system could include a booking process for courses. Off the shelf learning management systems with this kind of functionality are available.

#### **OTHER PREVENTION AND DETERRENCE**

- 9.33 Formerly, the IS&LD used Crimestoppers to provide a 'whistle blowing facility'. Late in 2007, they launched a dedicated line for whistle blowers called Race Straight, which is administered for them by Crimestoppers. This is being promoted alongside the Inside Information campaign in seminars and in training. Awareness of its existence should be raised as widely as possible. It should be placed on the BHA website with hyperlinks from other websites which people in the industry who have concerns may use. (See para 11.8 for suggestions on how to improve the impact of this initiative.)
- 9.34 In conclusion, we make a number of recommendations to enhance the impact of the prevention and deterrence work of the IS&LD.

#### **R 10 The Review Team recommend that the IS&LD develops a prevention and deterrence strategy and plan.**

**Following from this, we recommend that the IS&LD establishes what remains to be actioned from the Review of Inside Information and draws up an implementation plan.**

A plan should also be drawn up to convey the Inside Information message to the whole regulated community and also to deliver it at the point of entry. This should include consideration of translation of some of the material into commonly spoken foreign languages.

Improving relationships with other bodies can contribute to the effective dissemination of the Inside Information message. We recommend that the BHA considers how its relationship with the National Trainers' Federation might be enhanced. The same applies to the National Association of Stable Staff.

The plan should include promoting awareness of the existence of Race Straight as widely as possible.

- R 11 The Review Team has considered training in the context of integrity, but this has led us to make a general recommendation about training for the regulated community. We recommend that the BHA reviews its approach to training, to ensure that it matches the BHA strategic aims and to professionalize its delivery. Oversight and quality and content control should rest with the Head of Industry Recruitment and Training who should act in consultation with the relevant departments.

## **10 PREVENTION AND DETERRENCE: THE RACEDAY TEAM, SYSTEMS AND SECURITY**

### **THE RACEDAY TEAM**

10.1 The BHA employs a number of staff, known as the Raceday Team, who work at the race courses. They undertake a range of functions, but all of them are mindful of the fact that their role is to contribute to preserving the integrity of the sport. In spite of the fact that the BHA is a new organization, the brand 'BHA' is already strong. The idea that the BHA stands for preventing corruption is well embedded. Certainly, the members of the Raceday Team see themselves as aligned to the IS&LD and understand that they are all working to common aims.

### **Handicappers**

10.2 The BHA has twelve handicappers. The handicappers see themselves as part of the 'policing' of racing. Their objective is to achieve competitive racing, using the handicap to make the horses as near equal as possible.

10.3 About 4000 new horses come on stream each year and receive a handicap rating. The rating is normally given once the horse has competed in three races, but the handicappers have the right to refuse to give a rating. This happens about 300 times a year for jumping and about 20 times for flat racing. A horse must have completed at least one race it has entered to receive a handicap. It is preferable that it should have completed more.

10.4 When a rating is not given it is usually because the handicapper concerned is not satisfied that there is sufficient accurate evidence to do so. Such situations happen more frequently in jump racing, quite often when things have gone wrong for the horse concerned such as the horse failing to complete the course. Where a handicap mark is refused for flat racing, it is generally done so when the handicapper feels that making an assessment on the basis of relatively flimsy evidence could let a particular horse in with too little weight. This could, for example, involve a horse whose three qualifying runs have been in races that have not provided the horse with the opportunity to display its full ability. This is

not against the rules as such and views on the practice are divided. Nonetheless, some think it is borderline cheating, whilst others view it as playing the system.

- 10.5 All horses' ratings are reassessed and if appropriate adjusted after each race. Handicapping is a process of constant adjustment. If the handicappers observe that a horse has subsequently performed much better than in its previous races, its rating would be adjusted, but a betting coup might have already taken place.
- 10.6 Equally, if a horse performs in such a way that normally it would have its rating adjusted to its advantage, and the handicappers think there is something amiss or it is an aberration, then they will not adjust the handicap. They will never drop the handicap racing if they believe that the horse may have been a non-trier. Thus the handicappers form an important part of the efforts to prevent cheating.

### **Stewards**

- 10.7 There are seventeen Stipendiary Stewards. There are two at every meeting. They are supported by lay stewards who are unpaid volunteers. If there is a steward's enquiry, the panel will consist of three or four stewards, at least one of whom will be a stipendiary steward.
- 10.8 A stipendiary steward briefs the stewards before racing starts. This is the point at which, if any intelligence had been received, it is passed on, so that particular attention can be paid to a given rider, horse or race. On average stewards receive intelligence or alerts from the betting analysts about two or three times a month.
- 10.9 Stewards' enquiries are held very quickly after a race. They do not take long to hold as 90% of the evidence is visual, deriving as it does largely from the video coverage of the race. The jockey or any other relevant person is asked for an explanation. The most common offences are interference, misuse of the whip or that the horse was not ridden to be competitive (non-trier). (There are two non trier offences: Rule 155 where a horse is not run on its merits and Rule 157 where a rider has **intentionally** failed to ensure that his horse is run on its merits.)

- 10.10 The stewards' enquiry is based entirely on the evidence from the race. Evidence of betting patterns is not part of the evidence to the enquiry, although prior intelligence may have led to closer scrutiny of the race and identification of a breach of the riding rules.
- 10.11 If the security department has issued a 'red alert', then a stewards' enquiry will always be held for that race, if only to obtain evidence which can be passed back to the IS&LD. Even if no breach is identified, jockeys' explanations of what happened in the race will be recorded. In any subsequent investigation by the IS&LD, the explanations can be checked against any later account given of the race.
- 10.12 Video coverage of races is to a high standard, with a minimum of four cameras covering different viewpoints. The stewards use their skills to determine the most likely outcome of a race based on an assessment of form, watch the races through binoculars and review video footage immediately upon the conclusion of all races. Stewards then decide which horses should be drugs tested. Often the winning horse will be tested, but if there are concerns about any horse, whether that it performed better or worse than expected, or was subject to an alert, then it is likely to be tested.
- 10.13 The stipendiary stewards have reasonable communication with the WRSOs, but little communication with the SSOs. They feel they have good contact with the IS&LD and would readily be able to contact someone from IS&LD if they needed to.
- 10.14 The knowledge by all concerned that the Stewards are actively monitoring the racing to ensure its integrity is an important part of the prevention of cheating.

### **Veterinary Team**

- 10.15 The BHA employs 14 veterinary surgeons and 22 veterinary technicians, purely for integrity purposes. Other veterinary surgeons are retained by the race courses to treat horses on behalf of owners and trainers.
- 10.16 Somewhere between six and twelve horses are drugs tested at each meeting. The stewards decide which horses are to be tested. It may be the winner, or it

may be a horse which has put in an unexpected performance. The knowledge that a horse is likely to be drug tested is a considerable deterrent from trying to cheat by administering something to a horse, either to enhance or depress its performance. There is, however, always a concern that there may be drugs which are not being detected because they are not known about.

10.17 The tests sometimes pick up very small traces of drugs. Stable staff may make a mistake with feed, or traces of sedative used during clipping may remain. This encourages trainers to operate proper procedures and take care with feed and the administration of drugs in the period before a horse is going to race. The Stable Inspecting Staff pay close attention to how trainers manage drugs and feed administration.

10.18 There is no doubt that drug testing is a considerable deterrent. Without the near certainty that a winning horse or a horse which has turned in an unusual performance will be tested, undoubtedly there would be more horse doping.

### **Stable Inspecting Staff**

10.19 The five stable inspecting staff visit each trainer's yard about every eighteen months. If they have any concerns, they visit more frequently. The bulk of their work is done for the Licensing Unit. The initial inspection for a new trainer could last half a day. Initial applications are sometimes turned down. The stable inspecting staff spend about 60% of their time inspecting premises and 40% dealing with investigations, mainly positive test results or horses being trained in unlicensed yards. They check on practices and how records are kept of feed and drug administration, enforcing the standards which help to prevent the administration of drugs to horses which will be racing. They also visit the race courses and work with the SSOs on identifying horses being trained by unlicensed trainers, by identifying which boxes they come in.

10.20 Stable Inspecting Staff also participate in the education process for trainers, stable staff and jockeys by delivering inputs on their training courses. More is written about this in the section on training (see paras 9.15 et seq).



10.21 They are sometimes tasked by the IS&LD to look for certain things and also pass intelligence back.

10.22 The Stable Inspecting Staff are part of the gateway for a trainer to become licensed. They ensure that trainers who are not up to standard do not obtain licenses and are very much a part of the prevention and deterrence activity.

### **Weighing Room Security Staff (WRSOs)**

10.23 The eleven Weighing Room Security Officers were introduced about three years ago to ensure the integrity of the Weighing Room and changing room, and supervise the security staff provided by the race course to maintain a secure environment. They are responsible for enforcing the rules on use of mobile telephones. They stay in the phone zone to be present when jockeys wish to make calls. They check to see if jockeys are carrying only the phone which is registered to them, sometimes asking the jockeys to text them so they can check what phone is being used. They take details of unregistered phones and pass them on to the IS&LD. They check that no-one is using their phone without permission. This has become more difficult now that jockeys have to go outside to smoke, especially as some changing rooms have a number of exits. At Ascot, for instance, there are so many exits and so many jockeys, that two WRSOs are regularly on duty.

10.24 The WRSOs are paid more than the SSOs (Stable Security Officers). They work shorter hours in the weighing room and are generally out of the weather. They are supposed to brief the Racecourse Weighing Room staff (employed by the race course) two hours before racing although they only do this if they have something to say. At the end of a day's racing, they should conduct a debriefing. In practice, this only happens if something noteworthy has occurred.

10.25 The WRSOs and SSOs work separately. It has been suggested that WRSOs should see the SSOs before they start, as they start later than the SSOs, but this has been resisted by most, but not all, WRSOs. The WRSOs do not wear uniforms, unlike the SSOs, and see themselves as different. When the WRSOs were appointed, an opportunity was missed to integrate their working with the

SSOs to enhance overall race course security. This is discussed further in the section below on SSOs.

- 10.26 WRSOs also liaise with the staff in the Weighing Room (such as the Clerk of the Scales) and then directly pass any intelligence that they pick up. The Review Team considers that the presence of both the WRSOs and SSOs enhances the perception that the BHA is working to prevent corruption and protect the integrity of racing.
- 10.27 One final observation is that when the WRSOs were appointed, they received no induction or training. They are a valuable resource and their performance could be enhanced by appropriate training. A training needs analysis for the WRSOs should be carried out, and they should be appropriately trained for their current role and any future changes to their role.

#### **Stable Security Officers (SSOs)**

- 10.28 The twenty three full time and over twenty part time SSOs have a significant preventative and deterrent role. It must not be forgotten that they are also there to ensure safety in the stable area. They work in teams of at least two at each race course. Recent increases in staff have been designed to ensure that there are three SSOs on duty at every race meeting. They have to be on duty at racecourse stable yards from 08:00 on any raceday until horses have left the stables for the last race of the meeting. When pre-race cover is required, duty commences at 14:00 the day before a meeting.
- 10.29 Their role is to ensure that only authorized people are allowed into the stable area, and that nothing untoward occurs. They monitor the CCTV in the stable yard and conduct patrols to check the stables every half hour. They also guard the stables at night. One officer stays on the premises and after 23:00 must accompany anyone who wishes to see to their horse, although they discourage this practice. Because they have to go with the person, it leaves the gate vulnerable. At big meetings, there will be two SSOs on duty at night.
- 10.30 There are logistical issues about the deployment of the SSOs given their numbers and the number of meetings. They work long hours, travel long distances, and have no meal breaks. At the moment there are only enough staff

- to maintain two SSOs on the smaller race tracks. The BHA has recognized that three are needed, if they are to cover their responsibilities and have some breaks. One SSO is needed to book people in, and another on the gate, controlling access and checking the horses. The third person is needed to patrol the stables and cover for breaks. Things have improved as more part time SSOs have been recruited but their manager, the Security Operations and Project Manager, still has concerns about providing effective cover. The Review Team suggests the BHA employs some SSOs on annualised hours to give the required flexibility and ensure the appropriate cover.
- 10.31 The SSOs are issued with fleeces, which are not very distinctive, and BHA jackets which look serviceable and weather proof, which they wear with black trousers and shoes. Some complained that the clothing was inadequate and were wearing old Jockey Club issue clothing, or their own Barbour jackets. It would be a good idea to issue hats for inclement weather. It is important that SSOs should look professional, be visible and project the corporate image of the BHA.
- 10.32 The SSO's uniforms should be assessed to see if they are fit for purpose and that the SSOs be required to wear them. Consideration should be given to the wearing of uniforms by all Integrity Services and Licensing Department staff who appear in public. This would make them an obvious part of the staff on raceday, thereby endorsing that they are there to maintain integrity. This could go some way to bridging the gap between WRSOs and SSOs.
- 10.33 The quality of the offices and facilities which are provided by the race course vary considerably from place to place. Ludlow was mentioned as being particularly poor. BHA may wish to consider improving the facilities to show the SSOs they are valued and encourage an enhancement of their contribution.
- 10.34 Not only do the SSOs gather intelligence (more than they realise), they possess even more information about whether people are 'fit and proper persons' for licensing purposes, as they observe and experience the behaviour of people coming to the stables. Now that licensing has been integrated into IS&LD, the

SSOs should be encouraged to report back bad behaviour and convey what they know about people's suitability to be licensed and registered by the BHA.

- 10.35 The identity of every horse brought into the stables is verified by checking both its passport and its microchip using a scanner. From January 2008, all race horses have to be microchipped. This is to prevent ringers (one similar looking horse being substituted for another). Ringers are not common and the only cases reported to the Review Team involved genuine mistakes. In one case, two horses were mixed up when they were brought back from the sales. In another, the groom did not know the horses well and got the wrong horse ready. In a third case, the wrong chip had been put in the wrong horse. The veterinary staff also check carefully the identity of any horse on which they are going to carry out a drug test.
- 10.36 When people arrive at the stables, they have to come to the office, sign in and produce their pass. If people do not have their passes, the SSOs use their judgement. They view their role as being to facilitate people in doing what they have to do, not being obstructive. If they do not know the person, they try to phone to check if the person has a licence out or not. Out of hours, this is not possible. The SSOs should have access to the database of licensed and registered persons at all times.
- 10.37 Owners do not have BHA identification, but they may come to the stable to see their horses. This is an area of weakness which was pointed out in the Report on Racecourse Stable Security by John Essery in 2006 who recommended that owners should be given BHA identification. Trainers and grooms often prefer the owners not to come to the stables but to see the horse in the collecting ring. Apart from anything else, there is a safety issue. In order to guarantee the identity of the owner, it is good practice for the SSOs not to allow the owners in unless the groom/trainer can vouch for them and they can produce photo identification such as a passport or driving licence. Syndicate members are not allowed in at all. (A horse may be owned by a syndicate of as many as 40 or 50 people, or more.) The racecourse has the names of all the owners of horses for any given day and this is printed on the race card. This does not include details of syndicate owners, only of owners who are involved in the management of the

horse. So the SSOs could use this information to give them a list of owners for the day and would exclude syndicate members.

10.38 Owners should be issued with passes to the same standard as others with access to the stables. The SSOs should have a list of relevant owners for any given raceday who may be allowed access. This should not extend to syndicate members.

10.39 At major meetings, arm bands are issued at the time of signing in following a recommendation made in the Essery report. The SSOs view the arm bands positively, as they are visible and show immediately if a person has been signed in. They are changed every day. We believe that it is intended to extend the use of arm bands to all meetings pending the introduction of a technological solution.

**R 12 The Review Team's primary recommendation for the SSO and WRSO roles is that the two should be brought closer together, and that the WRSO should be responsible for race day intelligence and integrity and be in charge of the SSOs. This will ensure better briefing and a better flow of intelligence. The WRSO would liaise with racetrack staff, brief and debrief all BHA staff, and also race course security staff.**

**We make a number of subsidiary recommendations in relation to the WRSOs and SSOs with a view to improving their efficacy.**

- **Appropriate training should be given to the WRSOs for their current and any future role.**
- **The SSOs should have access to the database of licensed and registered persons at all times. They should be encouraged to submit more intelligence, particularly relating to whether people are fit and proper persons to be licensed or registered.**
- **Owners should be issued with passes and the SSOs should be provided with lists of relevant owners for any given raceday.**

- **Arm bands should be used at all race meetings pending the introduction of a technological solution, as a means of identifying those authorised to enter secure areas**
- **The SSOs uniforms be assessed, any necessary changes made and that they be required to wear them so they look professional, are visible and project the corporate image of the BHA. Consideration should be given to the wearing of uniforms to all Integrity Services and Licensing Department staff who appear in public.**

## **CCTV**

- 10.41 There are CCTV systems in both the Weighing Rooms and the stable areas which are owned and run by the race courses. The BHA and the Jockey Club has had concerns about the systems for some years. The Weighing Rooms are equipped with out of date VHS systems, with tapes kept for 28 days, usually in fairly insecure conditions, alongside the video equipment. The system relies on the WRSOs to replace the tapes periodically with new ones, so that they are not using worn out tapes. The system should be replaced by a digital system similar to that used in the stable areas.
- 10.42 The CCTV system used in the stable areas is more modern and was installed in 2004. It holds 60 days of recordings, and deletes older material automatically. On the whole the quality of the product is good. The camera positioned over the entrance captures everyone coming in, which provides a record and helps ensure good behaviour. There are often not enough other cameras, so they are positioned to point down the rows of stables rather than at the stables themselves. They cover long distances, sometimes making it difficult to tell what was happening, see a person clearly or even exactly which stable was being entered. Where SSOs have any concerns over a horse, they place it in a stable with good CCTV coverage.

10.43 The Review Team observed at Cheltenham that the recording equipment is on the counter in full view through a half glazed door, rather than in a secure cabinet. We were told that this was not an atypical standard of security.

10.44 There is a serious problem with retrieving material from this digital system. In order to copy it, someone has to go to the racecourse and download the data onto a laptop. It can only download at the speed at which it recorded, i.e. if you want 24 hours worth of recording, it will take 24 hours to download. Often, the whole system is brought back to the head office to carry out the time consuming download.

**R 13 The Review Team recommends a review of the CCTV systems for both the Weighing Rooms and the stable areas should be carried out and both systems brought up to an appropriate standard at all locations. This should permit the rapid and remote downloading of data. Recording equipment and tapes should be stored securely.**

## **PHYSICAL SECURITY**

10.45 Following recommendations of the Essery report, the IS&LD has been considering procuring an electronic access system. Various providers have been approached and asked for proposals. However, this is a complex matter, involving the stable areas at 61 locations. It is also an opportunity to consider **all** areas on race courses where access is restricted and to develop an integrated system using pre-programmed cards and proximity readers. Everyone with access to a restricted area would have a card programmed both for date and location. Lost cards can be deprogrammed and automatically become ineffective once their period of validity has lapsed. This is existing technology of the type used for hotel key cards or ski lift passes. This system would prevent access by pass holders who should not have access to a particular area on a particular day e.g. an owner or trainer who does not have a horse running.

10.46 It would be important to retain SSOs and WRSOs for visible impact and to intervene if a non validated person attempted to enter, but they would be much

assisted by the technology. It would also be necessary to ensure that the correct person was in possession of the pass by checking against a photograph.

10.47 A possible system is outlined below:

- Relevant people issued with a smart card with photograph.
- Prior notice of attendees, plus reserves.
- On each raceday, information programmed into system, with appropriate level of access.
- As people arrive (trainers, jockeys, grooms, owners), validate smart card for that day only.
- Temporary passes issued to non registered attendees.
- Access to appropriate area allowed when carrying validated card.
- Alarm goes off if anyone tries to enter without a valid card.
- When jockeys go out to ride, they can hand in their cards and pick them up on return.
- Cards could be used to for access to stables as well as stable area. Thus only people relevant to the horse can enter a stable. Central release for magnetic locks for all stables in the event of fire.
- Charge for cards. If lost, no value as they are cancelled. Loser has to buy a new one.

10.48. Advantages:

- Uses existing technology.
- Controls access to weighing room, winners enclosure, veterinary areas, stewards' viewing area etc, not just the stable area.
- Audit trail of who has been where and when which can be interrogated subsequently.

**R 14 The Review Team recommends that the BHA retains consultants to recommend the best way to provide an integrated access system for ALL restricted areas. The BHA can then make a policy decision on the way forward before going out to tender for this major piece of work.**



## **11 INTERNAL AND EXTERNAL COMMUNICATION**

- 11.1 The BHA has a number of different audiences, ranging from the public at large, other regulatory bodies, the betting industry, people within the racing world, the people whom it regulates or licences, and its own staff. For the BHA to be successful, it must communicate effectively in all respects. This was recognized in the 2003 Review (see Appendix B, Recommendation 3) but not implemented. It is recognized by the BHA which is in the process of appointing a Director of Communications and Promotions whose first task will be to develop a communications strategy. Delivering the message about integrity will be a key part of this strategy. The development of a communications strategy will help ensure that agreed consistent messages are delivered.

### **EXTERNAL COMMUNICATIONS**

- 11.2 Although there is currently no formal strategy, the IS&LD has worked closely with the PR manager to have active press relations and to deliver the message on integrity. Amongst others, the Guardian, the Racing Post, and the Yorkshire Evening Post have received briefings. 'Inside Sport', a BBC television programme, and a French television channel have both broadcast coverage. A scan of newspaper cuttings shows how active the relationship with the media has been and how much coverage there has been on integrity issues. The head of IS&LD and the PR manager are to be congratulated on the efforts they have made and the impact which they have had. Even in the wake of the very uncomfortable media coverage of what the media unsurprisingly called the Fallon Trial, giving it the name of its famous defendant, the Times ran an article entitled: 'Failed Case Cannot Derail Integrity Drive'. It endorsed the duty of the BHA to ensure the fair running of horseracing in terms of the conduct of its participants. One of the key actions for the new Director of Communications will be to rebuild the relationships with the media after the body blow of these proceedings which we have seen had little to do with the BHA beyond its original concerns about Miles Rogers.

## **COMMUNICATION WITH THE REGULATED AND LICENSED COMMUNITY**

- 11.3 It appeared to the Review Team that this had been a somewhat overlooked area and one which needs development. The IS&LD is now putting considerable effort into conveying messages to the people subject to BHA regulation about integrity and inside information. The current campaign is called 'Inside Information'. Part of this is about education but a large part of it is simply about communication.
- 11.4 The representative bodies of different parts of the racing community have their own publications to which the BHA might be able to contribute to get information across. For instance, the NTF (National Trainers Federation) has a newsletter which is published monthly and distributed free to all NTF members and key organizations in the racing industry. It contains information on current regulations, changes and proposals within the racing industry together with any new legislation relating to the business of training racehorses. The NTF also holds regional meetings. The Review Team was told that it was felt that there was scope to improve the relationship with the NTF. The trainers are influential and in a position to cascade information to their staff, so any improvement in communication would not only be conducive to better relations, but would also help inform stable staff.
- 11.5 Communication with the National Association of Stable Staff could be similarly improved. The Integrity leaflets are excellent, but the team has noted that many stable staff are not British and it might be appropriate to translate them into the common languages spoken on the yards: believed to be Polish, the appropriate languages from the Indian sub-continent, and Brazilian.
- 11.6 Recently, the Head of Security Operations and Project Manager in the IS&LD has developed an effective relationship with the newly appointed Chief Executive of the JAGB (Jockeys' Association of Great Britain) She is using this to support the project to educate the jockeys on 'Inside Information'.
- 11.7 This communication activity with the regulated community is led by the IS&LD and, whilst energetic, is piecemeal. The Review Team considers that there

should be a co-ordinated approach and that the IS&LD should work closely with the Communications Department in order to maximise the spread of communication and enhance its impact.

- 11.8 We noted that the IS&LD was producing its own documentation and arranging for its 'Inside Information' programme to be loaded on the BHA website. Another initiative, Race Straight, a whistle blowing initiative, does not appear on the website at all. It is quite possible that a whistle blower would look on a website, not necessarily the BHA one, to find out how to pass on what they knew. So for this initiative to be impactful, not only should it be on the BHA website, but it should be on other websites (e.g. JAGB) with a hyperlink to the BHA site. It should be possible to find out how to let someone know about wrongdoing for any individual who does not know the word 'whistle blowing' or who had never heard of 'Race Straight'.
- 11.9 We were advised that, although the head of PR was responsible for the regulatory section of the BHA website, he was not able to control the content as individuals could arrange for material to be uploaded by the IT Department. Website strategy and content should be strictly controlled by the Communications Department.

## **INTERNAL COMMUNICATIONS**

- 11.10 It appears that currently no one in the organization is responsible for internal communication. Although the organization is a small one, it is geographically dispersed, and internal communication is essential to ensure a strong sense of corporacy and common purpose, which must include the role of all in promoting the integrity of the sport. We noted that the message had clearly been received and the impact of the IS&LD had been significant on those working in the field, not only Stable Security Staff, Weighing Room Security Staff and Stable Inspecting Staff, but also Handicappers and Stipendiary Stewards. However, we feel that this should be a BHA message, not only an IS&LD message, and that the Communications Department has a significant role to play. Some people in the field, particularly Stable Security Staff, but also some stipendiary stewards

and certainly the volunteer stewards either do not have access or are not able to use the communications means available. This needs to be remedied.

11.11 The BHA is developing a strategic plan, and the communications strategy will inevitably reflect that. Elsewhere in this report, recommendations are made about the BHA's approach to dealing with corruption and cheating. The Review Team has recommended that this approach be integrated into the strategic plan and disseminated in a co-ordinated fashion through the communications strategy.

**R 15 The Review Team recommends that the BHA develops a communications strategy encompassing its three audiences: external, the regulated community, and internal to the BHA. This will ensure the delivery of agreed consistent messages. It should include website strategy and content which should be controlled from the Communications Department.**

## **12 RECRUITMENT AND SELECTION**

- 12.1 For the BHA to be credible in its position as protecting the integrity of horseracing, the integrity of the way it conducts its internal affairs must be transparent and defensible. In the Panorama programme in 2002, the impression was given of an old school (or rather old regiment) approach where people were appointed on the basis of who they knew rather than in open and fair competition. It was this which led to Recommendation 12 in the 2003 Security Review that the appointment of the new Director of Security should follow best practice to ensure a transparent selection process which would ensure the best candidate was appointed.
- 12.2 This recommendation was followed and all appointments adhere to that principle. The BHA Human Resources Department has a staff of five and also provides an outsourced service to Behest (British Horseracing Education and Standards Trust) and the Levy Board. The standard recruitment process is that the relevant director works with HR to produce a job specification and a person specification. The job is then evaluated and a salary determined. Then the appropriate route for advertising is determined: internally, externally or through a search and selection company. If a search and selection company is used, there is normally a hybrid approach, with the BHA placing advertisements as well as using the services of the head hunter.
- 12.3 Once applications are received, the HR department and the director of the relevant department (or senior manager depending on the level of the post) will each draw up a shortlist which the two parties will then compare to create a final shortlist.
- 12.4 A selection process then follows. This usually involves the administration of a Personality Questionnaire: generally the Saville and Holdsworth (OPQ) Occupational Personality Questionnaire which reveals preferred working styles. In addition to the interview, increasingly the BHA is building in an additional element to the selection process such as a skills related test or presentation. The interview panel consists of at least two people one of whom is drawn from

- HR. The other is the director or senior manager of the appropriate department. There could be one interview, or two separate ones. The final decision over selection rests with the director or senior manager. In the event of a difference of views over a candidate between HR and a department which cannot be reconciled, a non-executive director will be invited to participate in the process.
- 12.5 The BHA has come under considerable criticism for offering an appointment as Head of Intelligence to a Mr Manning, a detective inspector in the City of London Police, who was involved in the case of Rodgers et al and gave evidence in the trial.
- 12.6 The Review Team has looked into this appointment and found that it complied with BHA policy and procedures on selection. There was a particular difficulty with filling this post which had twice been offered to individuals who had initially accepted it and then turned it down. Mr Manning passed through the BHA selection procedures and was offered the post which he was not to take up until the trial was over. Because of a possibility of conflict of interest, the offer of appointment was disclosed to the Crown Prosecution Service (CPS) which the Review Team is advised did not view it as a matter of concern.
- 12.7 The Review Team, whilst not commenting on the wisdom of making such an offer in the prevailing circumstances, accepts that due process was followed and that disclosure of the offer of appointment was made voluntarily. Because of the poor publicity attracted by the disclosure of the appointment of the Head of Intelligence during the trial of Rodgers et al, it is important for the BHA to continue to demonstrate open and transparent selection processes designed to appoint the best candidate for the post.
- 12.8 The world of intelligence gathering and investigation is changing. Until fairly recently, the police service was viewed as the main repository for these skills which now exist in a variety of organizations. The advent of the Serious and Organized Crime Agency, the Financial Services Agency, and the Assets Recovery Agency has created a new breed of career intelligence officers and investigators. Other sources are the military, HMRC (Her Majesty's Revenue and Customs), fraud investigators for DWP (Department for Work and Pensions) and numerous others including the private sector.

12.9 There is a risk in the BHA recruiting too many people from the same mould, those moving to a new career after retirement from the police service, or who have substantial police experience. Arguably, this narrows the expertise and thinking of the Department and makes it vulnerable to allegations of cronyism. The Review Team was pleased to see that a number of those employed in the Department come from a range of different backgrounds which produces cross fertilisation and open thinking.

**R 16 The Review Team recommends that the emphasis on future recruitment concentrates on skills rather than background. Recruitment campaigns should be spread as widely as possible and not restricted to police specialist publications.**

# **APPENDIX A**

## **PROJECT OUTLINE, SCOPE AND METHODOLOGY**

### **Scope of Review**

1. To carry out a Post Implementation Review of the Recommendations of the 2003 Security Review with a view to assessing how such measures have protected the integrity of racing.
2. Identify areas for development to improve the Integrity Services Department's role in protecting the integrity of racing.
3. Review relevant Rules of Racing and penalties connected with integrity issues.
4. Assess the role and procedures that racing and sports governing bodies should adopt when dealing with matters that may involve breaches of the criminal law as well as its own rules in relation to corruption connected with betting.
5. To consider all of the above in the light of the proceedings against Messrs Rodgers, Fallon, Williams and Lynch.

It is proposed that the review be carried out in three phases.

### **Phase 1**

1. A critical analysis and appraisal of the process, conclusions and recommendations of the 2003 review to include assessment of methodology, and assessment of the linkage between process, conclusions and recommendations.
2. A review of the implementation of the recommendations made by the 2003 review, together with an assessment of the degree to which cognisance has been given to the suggestions made within the review which do not appear as part of its formal recommendations.
3. An assessment, based on qualitative and quantitative data and personal interviews, of the impact of the implementation of these recommendations.

### **Methodology**

- It is envisaged that (1) will be a largely desktop exercise, but will require access to relevant documentation.



- Review of any project details relating to the implementation of the recommendations, internal reports, minutes, board decisions, policies or other documentation supporting the assertion that individual recommendations have been implemented. As many of the recommendations relate to the Integrity Services Department, it will also entail inspection of the Department's operating processes. It will also be necessary to conduct structured interviews of key individuals with responsibility for implementation of the review's recommendations.
- Identification and analysis of such performance data as is available in respect of the impact of the implementation of individual recommendations. This will involve a comparison of pre and post review performance supplemented, as appropriate, by structured interviews of key stakeholders.
- Evaluation of the strategy of the Integrity Services Department
- Evaluation of current structure of Integrity Services Department to assess its capacity to deliver the strategy or a revised strategy. Specifically, the resourcing of intelligence and investigation functions will be considered.

Structured interviews will be conducted with management, staff and key stakeholders. These interviews will be designed to establish how successful the implementation has been, and what else may need to be done. During the course of the Review, we shall seek to elicit views on both the reality and perception of corruption in racing. We hope to form a view of the determination of British racing to protect its integrity.

Visits to race courses are intended. They will be with particular regard to security, on the day briefing and stewarding.

## **Phase 2**

A review of the rules governing racing, the conduct of licensed individuals and the penalties for attempted corruption. This will include the recommendations of the Legal Review Group on the conduct of hearings which were implemented on 1 1 08 and the consideration being given to the introduction of plea bargaining.

## **Methodology**

- This part of the work will be carried out in close liaison with Nigel Macfarlane, the secretary to the Disciplinary Panel who we understand is currently conducting a review of the Rules, Orders and Instructions of Racing. We will also work closely with the Director of Regulation.
- The tariff of penalties and actual penalties imposed will also be considered.
- Mr Mark Gay will be contributing to this part of the review, providing a legal perspective. He will give particular attention to post investigation processes. He will consider the decision making process on the penalty to be sought by the prosecution

in the event of charges being proved. He will make recommendations on the process under which plea bargaining shall operate.

The scope of this work is dependent on the status and range of the review which we believe is already under way.

### **Phase 3**

Assess the role and procedures that racing and sports governing bodies should adopt when dealing with matters that may involve breaches of the criminal law as well as its own rules in relation to corruption connected to betting.

The processes which lead to a decision to refer a case to the police rather than rely on regulatory powers will be considered. This will be done in the context of the Gambling Commission which came into existence this year and the impact of the Gambling Act 2005, with specific reference to the new offence of cheating connected with betting in Section 42.

The decision making process and accountability in relation to what is investigated under BHA Rules and what is not (including decisions as to prioritization as between cases, and between different types of cases) will also be considered.

### **Methodology**

- This work will be done in liaison with the Gambling Commission and with legal assistance from Mr Mark Gay and Ms Catherine Beloff of DLA Piper.
- There will be an analysis and comparison of the legislation and prosecution options prior and subsequent to the enactment of the Gambling Act 2005.

## APPENDIX B

### POST IMPLEMENTATION REVIEW OF RECOMMENDATIONS OF 2003 SECURITY REVIEW

#### INTRODUCTION

In late 2002 a review of race security and intelligence was commissioned jointly by the Jockey Club and The British Horseracing Board and reported in 2003. The Report, entitled 'Security Review Group Report' made 36 recommendations, 35 of which were accepted. A post implementation review has been conducted of the effectiveness of the measures introduced as a result of the recommendations.

***Recommendation 1:***

***New mission statement, to include the principal strategic aims and objectives of the Integrity Services and Licensing Department<sup>13</sup>.***

The Integrity Services and Licensing Department (IS&LD) produced a mission statement in October 2004 which was subject to minor revision in September 2007. The mission is set out as: 'To ensure that there is public confidence in the integrity of British Horseracing'. In support of this mission statement are a number of aims and objectives framed around intelligence gathering, investigation, enforcement, liaison, inspection, education and internal communication. The focus of this document is subject to comment in the main report.

In the light of the issues addressed by the Security Review, this strategy was appropriate and laid the foundations for the work undertaken by the IS&LD over the past four years. It should now be reviewed in the context of the BHA's strategy and in the light of the recommendations of this review. (See Recommendation 1 of the current review.)

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<sup>13</sup> At the time that the 2003 Security Review was written, the Integrity, Security and Licensing Department (IS&LD) was called the Security Department.

**Recommendation 2:**

***The IS&LD's primary responsibility should be to police the 'Orders and Rules of Racing'; criminal matters are matters for the police.***

The IS&LD adopted this recommendation and increased its effectiveness by increasing its capacity and capability in the areas of intelligence gathering and investigation. This led them to uncover a greater number of serious cases, the pursuit of which has drawn them into areas of potential criminality. These have led to a number of referrals to the police. Paradoxically, a recommendation aimed at focussing their efforts on internal issues resulted in increasing involvement with wider issues of betting and criminality.

**Recommendation 3:**

***A more robust information strategy to be adopted by the BHA<sup>14</sup> to demonstrate how it regulates racing and what it is doing to address the issues which affect the integrity of racing.***

There is no evidence of any information strategy having been developed. However, there was a considerable amount of activity focussed on conveying the integrity message which has been successful in projecting the will of the BHA to tackle integrity and raising the profile of the IS&LD. Relationships with the press became more open, if uncoordinated, and the relationship with the IS&LD was good. Much fence mending is now needed in the wake of the trial of Rodgers et al.

The absence of a strategy led to the Director of the IS&LD becoming the personal face of the BHA in this respect, which made him exposed when things went wrong.

The BHA does not have a communication strategy of any kind. We are aware that once a Director of Communications is appointed, this will be an urgent priority. This strategy must include internal communication within both the BHA and its regulated and licensed community. The BHA strategy which is under development can only be delivered if it is properly communicated.

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<sup>14</sup> At the time that the 2003 Security Review was written, the BHA was not in existence and the recommendations were directed to the Jockey Club.

The Review Team found a number of examples of highly motivated individuals across the BHA undertaking initiatives in support of the broad strategic aim, but effectively working in isolation and having to manage the communication of their individual efforts to the relevant target audiences.

The main text (Section 11) makes recommendations on the BHA approach to communication.

### **Not implemented**

***Recommendation 4:***

***A robust prevention and deterrence strategy to be created and implemented by the IS&LD.***

The initial approach of the IS&LD focused heavily on certainty of detection and prosecution as a major deterrent. As explained to us by the director of IS&LD, the Review Team is of the view that this was a sensible and appropriate initial approach designed to overcome the shortcomings identified in the 2003 Review. Having achieved success in this area, the director has begun to broaden his approach to prevention and deterrence. A major initiative resulted in the report on Inside Information, which raised awareness of the issue, resulted in an amendment to Rule 243 and revision to the Integrity Code of Conduct (Appendix N). The incumbent of the recently created post of Security Operations and Project Manager has undertaken this responsibility which she is energetically pursuing. Recent initiatives include:

- Race Straight
- Inside Information (sessions for jockeys)
- Improvements to the operations of the raceday staff.<sup>15</sup>

Although prevention and deterrence are elements of the current IS&LD strategy, they would benefit from a more structured, planned and co-ordinated approach, and this is addressed in the main report in Sections 9 and 10.

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<sup>15</sup> The raceday staff are staff working at race courses.

***Recommendation 5:***

***Stable guards to remain BHA staff.***

This recommendation was made as proposals had previously been made to outsource the function. It was considered that there is an opportunity to make greater use of stable guards within the IS&LD. Stable guards, now known as Stable Security Officers (SSOs), have remained BHA staff and now have properly documented standard operating procedures. However, there is scope for further improvement which is explored in the main body of the report in Section 10.

***Recommendation 6:***

***The IS&LD to continue to liaise closely with the operators of betting exchanges with a view to combating current threats and to identify any emerging risks.***

A comprehensive memorandum of understanding is in existence between first the Jockey Club (latterly the BHA) and Betfair, which has 95% of the betting exchange market. Betdaq has the remainder of the market but is an Irish company and the BHA has not been able to build a relationship with them.

Informal liaison at a senior level is good. Legal Counsel for Betfair and other senior staff meet the director of the IS&LD about every two months and speak on the telephone about once a week. Structured meetings take place with a monthly meeting of the IS&LD and the Betfair Integrity Team. There is constant contact with ongoing case work. The BHA Betting Analysts speak to their opposite numbers at Betfair on a daily basis. The relationship is more active than for any other sport for Betfair which has 28 similar agreements worldwide with other sports. British Racing is Betfair's biggest product and more money is bet on this than on anything else.

Betfair employs an integrity team of about seven people and has two betting analysts looking at betting across all sports. They run automated reports showing significant deposits, significant wins, and significant total wins over a month. They share reports relevant to horseracing with the BHA. The betting analysts are looking in real time for betting anomalies. When they identify a trend which gives concern, they telephone BHA at the time, so a warning can be given. If the BHA betting analysts identify something similar, they would phone Betfair. BetMon (Betfair Monitor) is an IT tool Betfair provides to all sporting regulators which allows them to see bets at a threshold of their choosing for their sport.

These bets show up in real time with the account number hashed out on screen. For agreed suspect accounts, the account number can also be given.

There is a Betfair forum where comments can be posted by account holders but which can be viewed by anyone and the site is monitored by the Betfair and BHA analysts. Intelligence is also passed on from the 60 to 80 Betfair staff who take bets on the telephone. Betfair has strict criteria on what personal data they will pass on. However, the terms and conditions for account holders require them to consent to Betfair releasing personal data to bodies with which they have an agreement. This enables Betfair to pass on such information to BHA if it judges it appropriate.

***Recommendation 7:***

***All those licensed or registered with the BHA who have an account with a bookmaker or betting exchange should register that fact with BHA and such registration is a condition of grant of a licence or registration.***

This has not happened. It was not considered feasible as there are in excess of 10,000 licensed people. It was thought to be unenforceable and to be disproportionate to the ill it was trying to address, given that the Security Department would only occasionally wish to access betting accounts. This would then be covered by Rule 236 which requires licence holders to produce records of their accounts.

**Not implemented**

***Recommendation 8:***

***Shortage of stables on some racecourses with an interim solution to create a designated secure compound to which horse boxes with runners not allocated to a stable are directed.***

This has been resolved. Racecourses are only allowed to have as many runners as they have stables with the exception of Newmarket, as many of the horses are local and come straight over to race and go straight back. Musselburgh is the only place which continues to have a problem as they have had an unsuccessful planning application to install an all weather track and stables. They currently have a dispensation from the requirement to have as many stables as runners and they do not have a designated secure area. The

dispensation is for this season only and a new yard should be built and all rules complied with.

**Recommendation 9:**

**Director of the IS&LD should remain a member of the Jockey Club (BHA) Regulatory Board.**

This recommendation was made because the role was considered pivotal to the BHA efforts to maintain the integrity of the sport. It was considered that integrity issues should be discussed at the highest level and permeate through all the activities of the BHA.

The director of the IS&LD is a member of the Regulatory Committee which delivers the above intention. However, his effectiveness will be enhanced when the BHA strategy is complete and the IS&LD strategy has been reviewed. See Recommendation 1.

**Recommendation 10:**

**An additional post of Head of Intelligence to be created to co-ordinate the whole intelligence function within the Department and to assist in liaison with other agencies.**

This post was created and filled soon after the 2003 Security Review. The enhancement of the intelligence function has been very impactful. However, a series of difficulties have led to this post remaining vacant for the best part of a year. For the Intelligence Unit to achieve its full potential it is critical that this post be stabilised. This post has now been permanently filled.

The function of the intelligence unit is explored in detail in the main body of the report in Section 4.

**Recommendation 11:**

**A post of Chief Investigator to be created from within the existing posts.**

This recommendation was implemented and one of the existing investigators was promoted into this post. The investigation function is analysed in the main body of the report in Section 4.



***Recommendation 12:***

***The appointment of the New Director of Security should involve an open advertisement, followed by a transparent selection process matching the accountabilities and job description of the role against the qualities and abilities of the best candidate for the post.***

Transparent and fair selection processes are an important element of the integrity of any organization. The processes which were followed for the appointment of the current director of the IS&LD followed best practice.

The Review Team has explored recruitment and selection in the BHA and discusses this further in the body of the report in Section 12.

***Recommendation 13:***

***It is strongly recommended that a full user requirement for a computerised database for the IS&LD to be prepared.***

A Memex database is installed and running. This allows the collation and search by specific criteria of a range of intelligence including photographic images. The system is managed by the Intelligence Development Coordinator (IDC) who periodically weeds entries to ensure they remain relevant, in compliance with the data protection legislation. The IDC is also responsible for data cleansing (ensuring that entries are not unnecessarily duplicated through use of different spellings etc).

The system is accessible to those authorised through a LAN and via the web. Theoretically, therefore, members of the investigative field force are able to interrogate and update the database remotely although it appears that their propensity to do so varies in line with their ability to utilise the technology.

The intelligence capability is fully examined in the main report in Section 4.

***Recommendation 14:***

***Within the proper bounds of confidentiality, improvements to be made in the feedback for those who have provided intelligence to the IS&LD.***

There are a range of sources of intelligence for the BHA. They range from those from outside the organization (e.g. bookmakers, betting exchanges, and related bodies and associations, other contacts, whistle blowing and sources) and from BHA staff, particularly the field staff (those working at race courses or inspecting stables). By and large feedback has not improved and major improvement is probably not feasible.

Where there is constant contact, as with Betfair, then feedback can take place. The Association of British Bookmakers (ABB) also says that there is a good relationship and that they pass intelligence to the IS&LD, without seeming to have any real expectation of feedback.

Those working within the BHA, such as stewards, handicappers, stable inspectors, Weighing Room Security Officers (WRSOs) and Stable Security Officers (SSOs) have a clear understanding of the importance of the provision of intelligence. They have a good relationship with the IS&LD, good quality communication and most have access to bulletins and/or receive briefings when appropriate. Many submit occasional intelligence reports, but receive little feedback. The role of field staff as givers and receivers of intelligence is discussed at Section 4.

***Recommendation 15:***

***It is recommended that the IS&LD reviews and rationalises its targeting policy to be consistent with its departmental aims and objectives.***

The IS&LD has adopted the 'National Intelligence Model' (NIM) used by the police service. This model employs a 'tasking and coordinating' function (Tasking and Co-ordinating Group (T&CG)) to manage the interface between intelligence and subsequent activity, the aim being to ensure that all effort is intelligence driven and therefore likely to achieve the most efficient use of resources.

The Review Team attended a meeting of the T&CG and found it to be an effective means of prioritising workload and monitoring case progress. Because of the geographic dispersal of the investigators and the difficulty of getting them together, there is a two tier system of meetings, with some involving all the investigators available, and others having a smaller membership.

Whilst the targeting policy undoubtedly ensures consistency with departmental aims and objectives, the issue as to whether it fully addresses the corporate aims and objectives of the BHA needs consideration. This is addressed at Section 4 in the main report.

***Recommendation 16:***

***Digital cameras to be issued to appropriate security staff and review effectiveness of existing covert cameras.***

Digital cameras have been issued to the investigators who rarely use them as they are not engaged in intelligence gathering in the field.

The BHA has no covert equipment. If the IS&LD wished to engage in any covert work, they would buy in the service. This has not arisen.

SSOs and WRSOs do not have cameras. They will occasionally take a picture using their own mobile phones. One of the WRSOs uses his own digital camera on occasion.

Stable inspecting officers have digital cameras to create a visual record of specific aspects of the premises which they are inspecting.

**Although staff seem content with the arrangements, the IS&LD should review the issue of digital cameras and adopt a consistent approach. Guidance should be given to ensure they are not used inappropriately or intrusively.** (See Recommendation 3 in the current Review.)

***Recommendation 17:***

***It is recommended that investigators should be debriefed following a case to identify and share good practice and develop intelligence.***

This function is the responsibility of the Chief Investigation Officer. It appears that the pressure of case load for the investigators and the fact that they are dispersed across the country inhibits detailed debriefs. Consequently debriefs tend to be carried out informally. The Tasking and Coordinating Group does offer the opportunity for some debriefing but this competes for time against other business.

The Review Team found some evidence to suggest that the debriefs do not include representatives from other departments (legal, discipline etc.) which limits the opportunities

for organizational learning. **The Review Team recommends that the policy on debriefing be reviewed.** (See Recommendation 3 in the current Review.)

***Recommendation 18:***

***To maintain the integrity of evidence, it is recommended that personal notebooks should be issued with unique reference numbers and a record of issue.***

At the time that this recommendation was made, the practice was to record interviews by taking contemporaneous notes on prepared questionnaires. Tape recording of interviews was viewed as desirable, but had cost and training implications.

This recommendation has not been implemented. Interviews are conducted by investigators and by stable inspecting officers working in pairs or with an investigator. For straightforward cases, investigators continue to take contemporaneous notes on prepared questionnaires. Tape recorders have been acquired for use on more complex investigations.

The review team does not consider that personal notebooks need be issued, provided the integrity of **all** evidence is assured. The director of IS&LD has expressed concerns over samples taken for analysis, either from a horse or a jockey, and the need to be able to prove the continuity of the sample as it moves from place to place, that there has been no cross contamination and that the sample is incontrovertibly linked with the subject. **IS&LD should review the procedures in place to ensure the integrity of all evidence.** (See Recommendation 3 in the current Review.)

***Recommendation 19:***

***Where police decline to pursue a criminal investigation, either because it is not in the public interest or there is insufficient evidence, it is recommended that consideration should be given to taking action under the Orders and Rules of Racing.***

IS&LD has conducted its investigations with the primary objective of dealing with the subjects under the Orders and Rules of Racing. They have referred cases to the police where one of the parties is not licensed or registered by the BHA and has not desisted from activities which appeared to be of a serious criminal nature.

The question of referral of criminal matters to the police is discussed in the main report at Sections 5 and 8.

***Recommendation 20:***

***The Group recommends combining the roles of Intelligence Officer and Investigating Officer.***

These roles were combined in April 2004. As a result the skills deficit identified in the 2003 review, of some people not knowing enough about investigation and others not knowing enough about horseracing, appears to have been rectified.

There is some concern, however, that intelligence gathering may have suffered because the investigators focus on investigation rather than broader intelligence gathering. Previously, intelligence officers visited race courses purely for the purpose of intelligence gathering. As the staff are fully occupied with investigations, there is little pro-active intelligence gathering. This balance between intelligence and investigation is examined in Section 4 of the main report and suggestions for improving the pro-active intelligence gathering capability are made.

***Recommendation 21:***

***It is recommended that a new post of Betting Investigator should to be created.***

Two Betting Investigators have been appointed. They have two key functions. The first is to monitor the betting patterns of Betfair using a program called BetMon which is provided by the company. They identify suspicious runners on any given day from intelligence, check prices against the handicapper's assessments, independent bookmaker's prices and Betfair. If they spot an unusual spike they will then call an alert and let the Stewards know who can then pay close attention to the race and carry out any appropriate enquiry.

Their second function is thorough investigation once an event has occurred. Using their sources, they will access the accounts of suspicious gamblers and review their gambling history in order to provide evidence for ongoing investigations.

The future staffing of the Integrity Services and Licensing Department will see the two Betting investigators being supplemented by a, yet to be employed, Race Reader.

**Recommendation 22:**

***Stable Security Officers are a valuable source of intelligence and it is recommended that they should be properly briefed including consideration being given to providing photographs and identification details of excluded persons.***

The intention behind this recommendation was to link the SSOs more firmly into the intelligence network. There have been improvements, but the exercise has not been entirely successful for a number of reasons. The SSOs say they do submit intelligence reports but that they rarely observe anything they think might have to do with corruption or cheating. In their view, most people are fairly compliant. The issues which come to their notice are more about bad behaviour such as assault or drinking, information which is relevant to the licensing function. They hold a lot of knowledge that 'everyone knows' which is consequently lost to the IS&LD.

The SSOs receive a monthly update of excluded or warned off persons which usually comes with photographs. Although electronic information bulletins are in existence, the SSOs do not have access to them as they do not have access to computers, and many of them do not have IT skills. They do receive newsletters. Briefings take place intermittently, generally at the larger meetings. They are occasionally tasked directly from the IS&LD to obtain information or observe a particular individual or horse. For instance, they may be asked to check what box a horse comes in and who brings it.

In the main, the WRSOs (Weighing Room Security Officers), who are integrated into the intelligence loop and have access to on line briefings, and the SSOs work quite separately. It has recently been suggested that WRSOs should see the SSOs before they start work, as they start later than the SSOs, but this has been resisted on both sides. Some WRSOs do have contact with the SSOs and brief them if they have relevant intelligence.

Two way communication and things generally have much improved since the creation of the post of Security Operations and Project Manager who is enthusiastic, proactive and very much a visible presence. She is supported by the Security Operations Supervisor and both give briefings when they are present at a racecourse.

However, there is scope for further improvement in integrating SSOs in the intelligence loop and consideration needs to be given to the interaction between SSOs and WRSOs. This is addressed in the main body of the report in Sections 4 and 10.

**Recommendation 23:**

***It is recommended that a designated point of contact should be established between SSOs on duty and other IS&LD staff.***

SSOs on duty are able to phone the Security Operations Manager, the Security Operations Supervisor or the Deputy Security Operations Supervisor for advice and assistance. They might phone the licensing department to check on someone's licence or the Irish Turf Club or Weatherbys. They have radios to communicate with others on the racecourse and can telephone the stewards or the WRSO. For instance, they would let the stewards know if someone was being abusive.

However, there is an argument that there should be someone designated in charge of security at each race meeting, rather than just on the occasions when the Security Operations Manager or her deputy can get there. This person would liaise with race track staff and management and manage the SSOs. They would verbally brief the security staff, and the race course security staff who are currently completely left out of the loop. They would then also debrief at the end of each day, giving the staff the chance to mention things that they otherwise might not bother doing. That person would then be responsible for passing that information up the chain. (The WRSO in its current form is ideally placed for this duty.) They would also be able to pick up on more intelligence from local punters, the clerk of the scales, licensed members, race track staff, on course bookmakers etc. and pass this on.

The issues of the effectiveness and interrelationship of the SSOs and WRSOs are discussed in more detail in the body of the report in Sections 4 and 10.

**Recommendation 24:**

***It is recommended that the IS&LD Standard Operating Procedures should be stored and accessible electronically. This should also apply to Memoranda of Understanding (MOUs) developed with other agencies and all operational contingency plans.***

All Standard Operating Procedures (SOP), forms and templates are stored electronically and are available in hard copy. MOUs are also stored electronically. The office uses a shared drive which is accessible by Investigators and Stable Inspectors for important documentation. Operational Orders, such as those which document how operations will be carried out on a Raceday for a major Festival Meeting such as Cheltenham or the Grand

National are also available electronically and are issued to those staff on duty in paper format during a pre-briefing meeting.

***Recommendation 25:***

***It is recommended that the Chief Investigator should have responsibility for a fewer number of racecourses, to compensate for his additional supervisory role.***

The Chief Investigator is not responsible for any racecourses allowing him to focus on the supervision of the investigative team.

***Recommendation 26:***

***There is an urgent need to reconsider the staffing levels in the intelligence cell – the focal point of any investigative agency. In addition to the current staff, the following new posts are recommended:***

- ***Head of Intelligence (a new post with the role possibly redesignated from within existing resources – see Recommendation B10)***
- ***Office manager/allocator***
- ***Administrator/researcher***
- ***Inputter/typist***
- ***Betting Analyst (current post holder retiring)***

***An additional post of Betting Investigator is also recommended.***

The structure of the Intelligence Unit has, commendably, been kept under review as the requirements generated by the focus on protecting the integrity of horseracing have evolved. The current structure is as follows, although it remains under review.

The intelligence unit is led by the **Head of Intelligence**. The post holder is responsible for tasking resources in line with the department's aims. He attends tasking conferences in which he is able to pass intelligence to the rest of the department as well as take back taskings which he will then give to his own department. He oversees the intelligence coming in so that he can maintain a broad picture as well as double checking on the quality of the reporting and the appropriateness of its security grading.



The **Intelligence Development Co-ordinator** acts as the second in command. The IDC does the day to day running of the database and the influx of intelligence. He receives emails from the various sources of intelligence and ensures that they are filed in the database under the correct grading system. If further action is required on any of the data, he ensures that this is carried out. He responds to queries given to the Intelligence Department by running searches through the database or on the internet. As a result of the Department taking on licensing, he also now carries out searches in order to write a review on people who are applying for or renewing their licenses. He is responsible for putting together investigation packs for the Head of Intelligence to take to tasking meetings, and also writes the bulletins, passing relevant intelligence down to other members of IS&LD. He receives approximately 150 reports a month, some 60% of which are generated by the Raceday Team, and the remainder by the office (although this will include those written up from emails/phone calls from outside).

The **Intelligence Unit Assistant** provides administrative support for the IDC and the unit as a whole.

The two **Intelligence Analysts** have two roles. One of these is checking telephone records. If a jockey's telephone record is requested, the analysts will check it for activity on racedays and attempt to identify the numbers that have been rung from their own database of numbers. This will allow them to identify associates of jockeys who are in breach of the rules.

The analysts' primary role, however, is to deal with the information that comes in during an investigation. They will analyze all phone records, account activity and race performance in order to identify all of the participants in any investigation, and attempt to put together a time line showing their activities during a race meeting. They assess their investigations to be on approximately 2/3 betting and 1/3 phone records.

The two **Betting Investigators** have two key functions. The first is to monitor the betting patterns of Betfair using a program called BetMon which is provided by the company. They identify suspicious runners on any given day from intelligence, check prices against the handicapper's assessments, independent bookmaker's prices and Betfair. If they spot an unusual spike they will then call an alert and let the Stewards know, who can then pay careful attention to the race and carry out an appropriate enquiry.

Their second function is thorough investigation once an event has occurred in order to provide evidence for ongoing investigations.

Future plans for the Integrity Services and Licensing Department will see the two betting investigators being amalgamated with a, yet to be employed, Race Reader under the title of the 'Raceday Integrity Unit.' This discussed further in Section 4.

The Intelligence Unit is the 'engine room' of the drive to protect the integrity of horseracing. Its formative stages have been hampered by staffing issues, in particular delays in filling posts. The Review Team discusses the impact of this on the Unit's ability to realize its full potential in the main report in Section 4.

***Recommendation 27:***

***It is recommended that training for all posts within the IS&LD should be reviewed but there is a pressing need for formal induction courses and training in some specialist areas, like betting.***

New investigators are sent on an industry induction course which lasts a week and is run by the BHA. They are generally given a betting placement, either with Betfair or large bookmakers. The 2003 report recommended that new staff should spend time with stable inspecting officers and in the Discipline Department as part of their induction, but this has not happened. **The Review Team considers that it would be beneficial for new investigators and licensing staff to spend time with the stable inspecting officers and the Discipline Department.** (See Recommendation 3 in the current Review.)

Other staff are sent on various courses or training is bought in such as the Analyst courses run by NPIA (National Policing Improvement Agency) at Wyboston Lakes. The stable inspecting officers spend a week with the security department. They are also either sent to police forces to undertake a course, or training is bought in from a police force training department, where they are given training on how to gather evidence, handle exhibits and in statement taking.

**The Review Team is not aware of any policy document which sets out a minimum induction programme for new IS&LD staff. It recommends that this should be done.** (See Recommendation 3 in the current Review.)

**Recommendation 28:**

***It is recommended that the director of the IS&LD reviews the arrangements for both executive and operational liaison with other departments of the BHA, and in particular with:***

- ***Stewards, and Stewards Secretaries and the Director of Regulation***
- ***The Licensing Department***
- ***The Disciplinary Department (including the Disciplinary Stewards and the Race Reader)***
- ***Handicappers***
- ***The Public Relations Department***

**Stewards, and Stewards Secretaries and the Director of Regulation**

Stipendiary stewards feel that they have a good relationship with the IS&LD and good communication. They consider that things have improved considerably since 2003 and that there is now a sense of common purpose. There is a good understanding of and commitment to what IS&LD is trying to achieve. If the IS&LD has issued a 'red alert', then there will always be a Stewards' Enquiry for that race, if only to obtain evidence which can be passed back to the IS&LD. Even if no breach is identified, jockeys' explanations of what happened in the race will be recorded. In any subsequent investigation by the security department, the explanations can be checked against any later account given of the race.

All Stewards' Enquiries are tape recorded and also transcribed by a stenographer. The stenographer also records any other relevant information including non runners and jockey changes. At the end of raceday a report is created which is sent to Weatherby's, IS&LD, and the Handicapping Department.

Not all stipendiary stewards have knowledge of or access to bulletins or other regular circulation of intelligence. However, they do receive calls from the betting analysts and use the information when briefing the other stewards. On raceday, they are comfortable that they could readily get in touch with someone from the IS&LD if they needed to.

The Director of Regulation feels that the relationship with IS&LD has significantly improved in the wake of the 2003 review. He considers that the fortnightly interdepartmental meeting (The Security Liaison Committee) is a major improvement. This Committee is chaired by the director of the IS&LD and attended by the Head of Investigations, the Security Operations

and Project Manager, the Legal Affairs Manager, and the Head of Discipline. The Director of Regulation is a member but not a regular attendee. One of the Non Executive Directors of the BHA who is a retired High Court Judge and a member of the Jockey Club also attends alternate meetings, as he is able to bring a wider strategic view.

### **Licensing Department**

The Licensing Department has recently been brought into the IS&LD, ensuring a close relationship. This is seen as an opportunity to strengthen the role of intelligence in determining whether a licence holder is a fit and proper person. This is discussed at more length in the body of the report in Section 6.

### **Disciplinary Department including Disciplinary Stewards and Race Reader**

See above.

There is currently no race reader, but the post is to be filled and will be located in the IS&LD to facilitate liaison with the betting analysts.

There is also now a constant informal exchange between the Disciplinary Department and IS&LD and a better awareness of what each party is doing. Things have improved considerably.

### **Handicappers**

Handicappers see themselves as part of the 'policing' of racing. They receive information from the Betting Intelligence Officers once or twice a week. If they have doubts about a horse, they will pass this on to the IS&LD. This may happen every two or three weeks.

### **PR Department**

It is evident that there is a close relationship between the PR Department and IS&LD. See also Recommendation 3 of the 2003 Review.

#### ***Recommendation 29:***

***It is recommended that formal executive liaison arrangements be made between Director of Security/Head of Intelligence and the Chairman and General Manager of the NJPC (National Joint Pitch Council).***

This has not happened and is not considered particularly relevant as corruption rarely takes place on course.

**Recommendation 30:**

***It is recommended that the Director of the IS&LD reviews liaison arrangements with the principal stakeholders in horseracing and, in particular with:***

- ***The National Trainers Federation***
- ***The Jockeys Association of Great Britain***
- ***Racehorse Owners Association***
- ***The Racecourse Association***

The fact that these arrangements are in place is evidenced by the fact that all these bodies, with the exception of the Racecourse Association, were members of the BHA Inside Information working group.

The Security Operations and Project Manager is developing an effective relationship with the newly appointed Chief Executive of the JAGB (Jockeys' Association of Great Britain). She is using this to support the project to educate the jockeys on 'Inside Information'.

**Recommendation 31:**

***It is recommended that the Director of the IS&LD reviews and enhances liaison arrangements with bookmakers and betting exchanges.***

This has been fully implemented and there is close liaison at both strategic and tactical levels underpinned by memoranda of understanding and information sharing agreements. The working arrangements are more effective with Betfair than with the bookmakers. The advent of the Gambling Commission has required some review of these which is discussed in Section 5.

**Recommendation 32:**

***In addition to reviewing the Department's general liaison arrangements with the bookmakers and betting exchanges, it is recommended that the IS&LD should actively develop the initiatives that are currently taking place between it and the betting industry.***

See recommendation 31 above. All elements of the betting industry visited by the Review Team were unanimous in their opinion that their arrangements with the IS&LD set the industry standard. At the tactical level interaction occurs on a daily basis, particularly with Betfair.

***Recommendation 33:***

***It is recommended that the Director of the IS&LD develops closer executive liaison arrangements with HMRC, ACPO and NCIS to agree protocols for mutual operational co-operation.***

In the main this has been superseded by the advent of the Gambling Commission with which an MOU is in the process of development. However there is regular contact at an operational level with individual police forces which is the appropriate level of contact rather than with ACPO (Association of Chief Police Officers). There is also regular contact on individual cases with SOCA (Serious and Organized Crime Agency), HMRC (Her Majesty's Revenue and Customs) (re tax and money laundering) and the FSA (Financial Services Authority). In the main, these organizations approach the BHA for assistance. The IS&LD Director maintains open access for all these bodies and endeavours to respond to their requests for assistance.

***Recommendation 34:***

***Relevant information should be sought by the IS&LD from bookmakers and betting exchanges to the fullest extent practicable under voluntary arrangements, pending planned legislation establishing a Gambling Commission.***

This was a 'holding' recommendation pending the advent of the Gambling Act 2005. It was fully implemented, with memoranda of understanding established with all key stakeholders in the industry.

***Recommendation 35:***

***It is recommended that the BHA Regulatory Board should review the position of the trainer when the jockey is found in breach of the Rules in relation to non-triers. That should include consideration of a strict liability offence, and more severe penalties, including suspension in more serious cases.***

**This recommendation was NOT ACCEPTED.**

The rationale for this recommendation is that where a jockey has acted in breach of the non-trier rule, the trainer would rarely be in ignorance. All those spoken to by the Review Team considered that a strict liability offence for the trainer would be disproportionate.

As a result of this recommendation in the 2003 review, more serious penalties were imposed for intentional non-trier offences (Rule 157). The jockey will have a suspension of 21-42 days, with an entry point 28 days.

Where a rider is found to be in breach of Rule 157, the trainer is deemed to be in breach of Rule 155(ii) (not giving instructions to the jockey to ensure the horse is run on its merits) unless he can prove otherwise. The entry point for this offence is £5000 and trainers can be fined between £3000 and £12000.

***Recommendation 36:***

***It is recommended that the Regulatory Board considers amending Rules 241 and 236.***

The 2003 review considered that Rule 236 fell short of giving an authority to search for specified items and that the rule should be extended to include horseboxes on the racecourse and persons within the racecourse stables.

Rule 236 gives authority for a person duly approved and authorised by the HRA to enter the premises of a trainer or examine horses under the care of a trainer for the purposes of determining whether or not the provisions of the Rules of Racing are being complied with or in relation to an investigation concerning a breach of the rules.

Rule 237 gives authority to take samples or custody of feedstuffs, feed additives and of any other substances or materials as deemed necessary. Subsection (d) gives power to inspect the premises and includes vehicles wherever they are.

Rule 1A(xxi) was expanded in 2006 to include horseboxes and persons on licensed premises. Rule 237 was also amended in 2006 in response to this recommendation.

The Review Panel considers that the Rules 1A, 236 and 237 provide adequate powers.

Rule 241 provides the power to seek telephone billing accounts and betting accounts from licensed persons. The 2003 review felt that consideration should be given to extending this power to allow the records to be obtained directly from the source (bookmaker or communications service provider) with consent from the licence holder to overcome data protection issues.

In practice, information about betting accounts is obtained directly from source. That is because, if the source is Betfair, account holders have to give consent to disclosure at the time of opening the account. See Recommendation 6. With other bookmakers much less information is provided. Under the terms of the MoUs, IS&LD can approach them for betting account information but in the past the Data Protection legislation has proven to be an obstacle. However, with the creation of the Gambling Act, betting operators are obliged to provide information if there were suspicions of cheating, as a condition of their operating licence.

It has not been possible to obtain telephone records from the communications service providers because, quite simply, they will not provide them. Obtaining itemised bills causes serious obstruction to investigations, being difficult and protracted. There may be some limited improvements with the establishment of the Gambling Commission, as it is an authorised body for the use of powers under the Regulation of Investigatory Powers Act 2000 and can obtain communications records from service providers in relation to the investigation of crime.

Telephone and other communications data are a major issue for IS&LD and are discussed in detail in the body of the report in Sections 5 and 6.

## **CONCLUSION**

The bulk of the recommendations of the 2003 review have been implemented. Where recommendations have not been implemented, by and large, the impact has not been significant, or there were good reasons for not doing so. The report was seminal and its implementation had a major impact on the performance of the IS&LD. Not only was the handling of intelligence and investigations professionalized, but the reputation of the department internally and externally was much enhanced. The message that the BHA is working effectively to protect the integrity of horseracing has been widely disseminated and understood. There is a strong corporate feeling within the BHA that all have a role to play. This extends to outside bodies. The sense of common purpose is evidenced by the



participation and signing up to the work on 'Inside Information'. Communication and liaison within the BHA and with external bodies has been greatly improved, and the IS&LD is viewed as the leader in the field of integrity in sport.

The IS&LD recognizes the need for continual evolution and development. The main body of the report considers what further improvements might be made in the context of recent developments such as the advent of the Gambling Commission and recent events such as the trial of Rodgers et al.

## **APPENDIX C**

### **DETAILS OF THE REVIEW TEAM**

#### **Dame Elizabeth Neville DBE QPM**

Dame Elizabeth joined the Metropolitan Police as a Constable in 1973, under the graduate entry scheme, with a BA in philosophy and psychology. She subsequently obtained a PhD in Occupational Psychology. She spent over 30 years in the police service, serving in Thames Valley, Sussex and Northamptonshire. She was Chief Constable of Wiltshire Constabulary from 1997 to 2004. She was awarded the Queen's Police Medal in the 1996 New Year's Honours, and appointed a Dame Commander of the Order of the British Empire in 2003.

She is a non-executive director of the Serious Fraud Office, a member of the Police Authority for the Civil Nuclear Constabulary, the Independent Adjudicator for Companies House and the Independent Complaints Assessor for the Agencies in the Department for Transport. She is a Director of Ajay Shopfit Maintenance Limited.

#### **Michael Page QPM**

Michael served with Thames Valley Police for 32 years retiring at the rank of Assistant Chief Constable. During this time he gained considerable experience in criminal investigation, critical incident management and command of major incidents. He was awarded the Queen's Police Medal in the 2000 Birthday Honours. He has a BA in History and a Diploma in Applied Criminology.

In the two years since his retirement from the police service, Michael has provided a range of consultancy to the IT industry and local authorities and is currently Deputy Director of the Strategic Command Course, the national gateway course for those seeking appointment as Chief Officers in the UK Police Service. In 2007 he co-authored a review of senior leadership training in the police service, the recommendations of which have been accepted by the Home Secretary and now form the basis of a revised leadership strategy for the service.

**Mark Gay**

Mark Gay is a Partner and Head of the Sports Group at DLA Piper LLP. He graduated from Oxford University in 1984 with a degree in law. He has wide experience of advising sports governing bodies on their disciplinary procedures and has conducted numerous prosecutions (and defences) of persons regulated under the rules of sports governing bodies. He is cited as a leader in his field both in the Chambers UK Directory for 2008 and in the Legal 500 for the same year.

**Catherine Beloff**

Catherine Beloff is a Solicitor in the Sports Group at DLA Piper UK LLP. Catherine holds a degree in Philosophy and Theology from Oxford University. She works closely with Mark Gay in advising sports governing bodies on a wide variety of issues.

**Matthew Burbeck**

Matthew has a BA in philosophy. He served in the British Army as an Infantry Officer for five years, both in the Territorial Army and the Regulars. He completed the Tactical Intelligence Course and deployed to Iraq where he served for seven months in 2007 as the second in command of the Basrah City South Intelligence Cell.

## **APPENDIX D**

### LIST OF INTERVIEWEES

#### **BHA**

Paul Beeby, Head of Intelligence

Stewart Blackburn, Stable Security Officer (SSO)

Terrence Brennan, Stipendiary Steward

John Bridgeman, Independent Regulatory Director of the BHA (Chairman of the Regulatory Committee)

Tom Chignell, Betting Investigator

Matthew Clarke, Security Operations Supervisor

Oliver Codrington, Legal Affairs Manager

Sir Michael Connell, Director of Racing Prosecutions; Jockey Club (Deputy Senior Steward)

Nic Coward, Chief Executive

Claire Dale, Senior HR Adviser

John Gardner, Principal Intelligence Analyst

Tony Goodhew, Director of Raceday Regulation and Operations

Robin Gow, Stable Inspecting Officer

Ben Gunn, CBE, QPM, Independent Regulatory Director of the BHA with special responsibility for IS&LD, author of joint BHB/JC Review of Security (2003) and Commissioner, Gambling Commission

Sara Hays-Jahan, Head of Industry Recruitment and Training

Nick Holman, Veterinary Technician

Barry Holmes, Intelligence Analyst

Eric John, Investigating Officer

Martin Knight, Stable Security Officer (SSO)

Keith Mason, Veterinary Officer

Nigel Macfarlane, Head of the Disciplinary Department and Secretary to the Disciplinary Panel

Professor Tim Morris, Director of Equine Science and Welfare

Sam Morris-Warburton, Intelligence Development Co-ordinator

William Nunneley, Senior Stipendiary Steward

Mark Phillips, Principal Betting Investigator

Yogita Popat, Security Operations and Project Manager

Graham Prentice, Weighing Room Security Officer (WRSO)

Ingrid Richardson, Head of Human Resources

Paul Scotney, Director of Integrity Services and Licensing Department

Adrian Smith, Stipendiary Steward

George Smith, Weighing Room Security Officer (WRSO)

Phil Smith, Senior Handicapper

Henry Smithers, Deputy Security Operations Supervisor

Paul Struthers, PR Manager

Phil Tuck, Stipendiary Steward

Malcolm Wallace, former Director of Regulation

Phil Walker, Head of Investigations and Deputy Director

John Wright, Senior Stable Security Officer (SSO)

## **OTHER ORGANIZATIONS**

ACPO (Association of Chief Police Officers) Central Office

Chris Cerroni, Ladbrokes, Head of Security

Chance Wilson, Training Consultant retained by BHA, to deliver Inside Information Education and Awareness Training

Barry Faulkner, Association of British Bookmakers (ABB), field worker

Jane Glastonbury, Policy Adviser Department for Culture, Media and Sport (DCMS)

Stephanie Grundy, contracted to BHA to work on the Orders and Rules of Racing

Eleanor van Heyningen, Department for Culture, Media and Sport (DCMS), Head of Consumer Protection Branch, Gambling and National Lottery Licensing Division

Haig Jenkinson, National Joint Pitch Council (NJPC)

John Johnson, Association of British Bookmakers (ABB), field worker

Tom Kelly, Association of British Bookmakers (ABB), Chief Executive

Chief Inspector Dave Moody, City of London Police

Mike O'Kane, Ladbrokes, Trading Director

David O'Reilly, Betfair

Russ Phillips, Association of British Bookmakers (ABB), chief executive designate

Piers Pottinger, Chairman, Bell Pottinger plc

Andy Rennison, Gambling Commission, Director of Intelligence

Commander Patrick Rice, City of London Police

Patrick Russell, BHA Legal Advisor

Nick Tofiluk, Gambling Commission, Director of Operations

Mark Warby, QC, BHA Legal Advisor

Jenny Williams, Gambling Commission, Chief Executive

## **APPENDIX E**

### LIST OF PRINCIPAL DOCUMENTS REVIEWED

Briefing for Chairman on the Work of the Department, Paul Scotney, 27 12 07

Briefing material in relation to the trial of Miles Rodgers and others including timelines, background, pre-trial appeal rulings and communications strategy.

Briefing Note for Meeting with Chairman 21<sup>st</sup> December 2007, Paul Scotney

Draft Partnership Agreement between The Gambling Commission and the British Horseracing Authority version 1.2

Guide to Procedures and Penalties: HRA 2007

Hillside Girl Enquiry: Jockey Club Press Office

Incident Response and Crisis Management Manual 3 4 07

“Inside Information” Panel of Enquiry Phase One Report: The Jockey Club

Job Descriptions for Security Department Staff

Jockey Club User Requirement for Computerised Information Systems

Memorandum of Understanding between Gambling Commission and ACPO

Minutes of Security Department Internal Management Tasking and Co-ordinating meetings.

MOU between the Jockey Club and Betfair

Notes from Overseas Trip: Paul Scotney 23/2/05

Regulatory Board 2005

Performance Targets for Director of Security

Policy on Referral of Cases to Other Authorities, Paul Scotney, 5 11 07

Racecourse Stable Security: John Essery QPM 2006

Report and recommendations of the Jockey Club's Integrity Review Committee July 2000

Report of Inquiry into the Effects of Betting on Sport: All Party Parliamentary Group, February 2005

Review of Specialist Courses (Jockeys and Assistant Trainers)

Security Review 2003: Chairman Ben Gunn, CBE, QPM

Security Department Objectives: 100 days, 1 year and 3 years 1/1/07

Security Department Review of Intelligence Unit: September 2006

Security Department Strategic Aims and Objectives

Standard Operating Procedures: Stable Security Officers (SSO)

Standard Operating Procedures: Weighing Room Security Officers (WRSO)

Structure and Overview of Security Department (undated)

Standard Operating Procedures: Prohibited Drug Investigations. Straightforward and Complex 'Positives' August 2005

Standard Operating Procedures Standard Investigation Initial Action August 2005

Standard Operating Procedures: Tape Recorded Interviews August 2005

Standard Operating Procedure – Telephone Production Orders etc. September 2007

The Orders and Rules of Racing: BHB/HRA 2007

## **LICENSING**

Applications Forms and Accompanying Guidelines

History of Licensing

Licensing Committee

Licensing Fees

Medical Review Procedure



Papers Presented to Regulatory Board (May 2005 to July 2007)

Review of the Licensing Process 19 2 2008

Staff Job Descriptions

Statistics

Structure Chart