



BHA SAFEGUARDING REGULATIONS

1. AIMS OF THE BHA SAFEGUARDING REGULATIONS

- 1.1 The Authority is committed to ensuring the welfare of Young Persons and Adults at Risk within racing. The Authority expects all Persons to share this commitment and maintain appropriate standards and behaviour in their dealing with Young Persons and Adults at Risk.
- 1.2 These BHA Safeguarding Regulations, incorporating the NSP Rules, establish a framework through which the Authority may investigate matters concerning the harm, or possibility of harm, to Young Persons and Adults at Risk, and the Authority's disciplinary processes relating to such matters.
- 1.3 The core aim of these BHA Safeguarding Regulations is to ensure the safety and welfare of Young Persons and Adults at Risk. The procedures detailed in these BHA Safeguarding Regulations are intended to be fair, straightforward and tailored to the needs of racing.

2. JURISDICTION

- 2.1 These BHA Safeguarding Regulations apply to all Persons.

3. DEFINITIONS

- 3.1 **Adult at Risk** means any person engaged in racing activities and/or any person employed, cared, advised, mentored, supervised or coached by a Person in the context of racing under the jurisdiction of the Authority aged 18 years or over who is, or may be, unable to take care of him/herself or who is unable to protect him/herself against significant harm or exploitation by reason of a mental health problem, a disability, a sensory impairment or some other form of illness or disease (or more than one of them);
- 3.2 **Authority** means the British Horseracing Authority;
- 3.3 **Authority Disciplinary Panel** means an independent Disciplinary Panel and/or Appeal Board (as the context so requires) convened under the Rules of Racing;
- 3.4 **NSP** means the National Safeguarding Panel operated by Sport Resolutions (UK) (a trading name of The Sports Dispute Resolution Panel Ltd - Company No. 3351039);
- 3.5 **NSP Rules** means the Procedural Rules of the NSP;
- 3.6 **NSP Tribunal** means an Arbitral Tribunal and/or an Appeal Tribunal (as the context so requires) appointed pursuant to the NSP Rules;



- 3.7 **Person** has the meaning given to it in Rule A(2) of the Rules of Racing, save that it shall also include any other individual who has agreed to be bound by these BHA Safeguarding Regulations and any person who from time to time participates in any activity sanctioned either directly or indirectly by the Authority;
- 3.8 **Provisional Suspension** means a temporary bar from participating in activity sanctioned either directly or indirectly by the Authority pending determination of a charge, as set out more specifically in paragraph 7; and
- 3.9 **Young Person** means any person engaged in racing activities and/or any person employed, cared, supervised or coached by a Person in the context of racing under the jurisdiction of the Authority under the age of 18 years.

4. PROHIBITED CONDUCT AND THE PROTECTION OF YOUNG PERSONS AND ADULTS AT RISK

- 4.1 No Person may (i) engage, or attempt or threaten to engage, in conduct that directly or indirectly harms the welfare of one or more Young Persons or Adults at Risk, and/or (ii) pose a risk of harm to one or more Young Persons or Adults at Risk.

NOTE:

- (a) *'Harm' is not a narrow concept, and can mean different things in different contexts. Reference should be made to the BHA Safeguarding Policy.*
- (b) *It is not necessary for conduct (or attempted or threatened conduct) to take place in the context of racing activities. For example (and without limitation), in the event that a Person is convicted or cautioned for, or charged with, any offence that concerns harm to one or more young persons or adults at risk (whether or not those young persons or adults at risk participate in racing), that may form the basis of action under these BHA Safeguarding Regulations as a result of that Person posing a risk of harm (regardless of whether or not the relevant offence, or alleged offence, took place in the context of racing activities).*

- 4.2 No Person may knowingly employ, engage or otherwise instruct any individual who, in undertaking the activities for which they are employed, engaged or instructed, poses a foreseeable risk of harm to Young Persons or Adults at Risk.

5. THE AUTHORITY'S POWERS OF INVESTIGATION

- 5.1 Upon the receipt of information that gives the Authority reasonable ground(s) to suspect that a Person has engaged, or attempted or threatens/threatened to engage, in conduct of the kind detailed at paragraph 4, the Authority will be entitled to investigate the matter.
- 5.2 In relation to any investigation commenced under these BHA Safeguarding Regulations, the Authority may:



- 5.2.1 Investigate the matter itself; and/or
 - 5.2.2 Appoint others, including an independent safeguarding expert (or experts), to assist the Authority in relation to its investigation or investigate the matter on the Authority's behalf.
- 5.3 In relation to any investigation commenced under these BHA Safeguarding Regulations, the Authority (or its appointee) may require any Person (and request any other persons) to:
- 5.3.1 Attend to answer and provide information and/or answer questions by way of interview;
 - 5.3.2 Produce documents, information or other material in whatever form held;
 - 5.3.3 Undertake a risk assessment by a suitably qualified person appointed by the Authority in such form as the Authority, at its discretion, considers appropriate; and/or
 - 5.3.4 Co-operate in any other manner that might be necessary or desirable for the purpose of the investigation.

6. SUPPORTING PROVISIONS

- 6.1 All Persons subject to investigation under these BHA Safeguarding Regulations, or who may otherwise be asked to assist with any such investigation, must co-operate with the Authority's (or its appointee's/appointees') investigation.
- 6.2 No Person may subject any other Person or other party to any detriment on the ground or belief that that Person or other party has reported a safeguarding concern to the Authority and/or assisted the Authority in any manner in relation to investigations or proceedings brought under these BHA Safeguarding Regulations.
- 6.3 No Person may make a malicious safeguarding report to the Authority, or otherwise act in bad faith in relation to matters covered by these BHA Safeguarding Regulations.
- 6.4 If any Person breaches any of the above provisions of this paragraph 6, the Authority may take disciplinary action against him or her under these BHA Safeguarding Regulations, the Rules of Racing or any other applicable rules or regulations of the Authority (whichever is more appropriate in the circumstances).

NOTE:

The Authority wants to be presented with any information, from any source, where there is reason to consider that any Person has presented or presents a risk of harm to one or more Young Persons or Adults at Risk, so that appropriate action may be taken. In order for the Authority's work under these BHA Safeguarding Regulations to be effective, the co-operation of all Persons is necessary when requested by the



Authority (or those acting on its behalf). The Authority may therefore view a failure to co-operate, or conduct designed at preventing or dissuading others from reporting concerns or co-operating, as a serious disciplinary matter. The Authority will also view malicious reporting or acts of bad faith in relation to safeguarding matters seriously (e.g. where a false report is made to pursue a personal vendetta or false information is deliberately provided to an investigation).

7. PROVISIONAL SUSPENSIONS

- 7.1 At any point in time where the Authority has reasonable ground(s) to suspect that a Person has engaged in conduct (or, as the case may be, attempted or threatened/threatens to engage in conduct) of the kind detailed at paragraph 4, the Authority may apply to the NSP (in accordance with the procedure prescribed by the NSP Rules or as otherwise directed by the NSP) for the imposition of a Provisional Suspension on that Person from all or any specific racing activities under the auspices of the Authority (including, without limitation, the suspension of any or all licences, permits and registrations held by that Person) and on such terms and conditions as it considers appropriate. The Authority will seek the imposition of a Provisional Suspension only in cases where it is reasonable and proportionate, with reference to the aims of these BHA Safeguarding Regulations.
- 7.2 The Authority or any Person subject to a Provisional Suspension may apply to the NSP to have it lifted or varied. A Provisional Suspension will otherwise remain in force until the matter has been finally determined (by the NSP, by an Authority Disciplinary Panel, or howsoever otherwise).

NOTE:

The determination of applications relating to Provisional Suspensions will, strictly, be a matter for the NSP. However, the Authority considers that the NSP Tribunal or President (as the case may be) should give consideration to the following when considering applications relating to Provisional Suspensions.

- *The prospect of any charge(s) being upheld (i.e. the stronger the merits of the charge(s), the stronger the justification for a Provisional Suspension);*
- *The seriousness of the individual case (i.e. the more serious a case is, the stronger the justification for a Provisional Suspension);*
- *Whether a Provisional Suspension is necessary or desirable to allow the conduct of any investigation by the Authority or the police or other public authority (or analogous body) to proceed unimpeded; and*
- *Any other circumstances that might be relevant to the individual case.*



- 7.3 The Authority may publish and/or share information relating to Provisional Suspensions on a 'need to know' basis, in such form and manner, and to such extent, as it deems necessary for the purposes of enforcement and/or compliance.
- 7.4 Any steps taken by the Authority before the NSP in relation to an application concerning a Provisional Suspension shall not serve to preclude the jurisdiction of an Authority Disciplinary Panel (rather than the NSP) to proceed to hear the merits of the charge(s), should the Authority elect to pursue the matter through the disciplinary procedures under the Rules of Racing pursuant to paragraph 9 below.

8. NOTICE OF CHARGE

- 8.1 If, at the conclusion of an investigation commenced under these BHA Safeguarding Regulations, the Authority concludes that the Person under investigation has a case to answer, the Authority will send written notice to that Person:
- 8.1.1 confirming that a charge is being issued against them under these BHA Safeguarding Regulations;
 - 8.1.2 detailing the facts and evidence on which the charge is based; and
 - 8.1.3 requiring his or her written response to the charge within fourteen days.
- 8.2 In the event that a written notice of charge is sent to a Person who was under the age of 18 years when the relevant conduct is alleged to have occurred, the Authority may, if it considers it appropriate, address or copy the notice to the Person's parent(s) or carer(s).

9. PROCEDURE FOR DETERMINATION OF MATTERS UNDER THESE BHA SAFEGUARDING REGULATIONS

- 9.1 Following receipt of the Person's response to a written notice of charge, or in the event no such response is received within fourteen days, the Authority may (in its absolute discretion) refer the matter for a hearing before the NSP or an Authority Disciplinary Panel to determine appropriate disciplinary orders and/or risk management measures (if any).
- 9.2 If the Authority refers a Person to the NSP or an Authority Disciplinary Panel under these BHA Safeguarding Regulations it shall prepare and send a written notice of referral in the name of the Authority to the Person, which shall contain the following information:
- 9.2.1 the facts alleged in support of the referral;
 - 9.2.2 an outline of the process to be followed in relation to the referral; and



- 9.2.3 contact details for the NSP or the Authority Disciplinary Panel (as appropriate).
- 9.3 The following matters arising under these BHA Safeguarding Regulations may be determined by the NSP in accordance with the NSP Rules, as amended from time to time, which are deemed to be incorporated by reference to this paragraph:
- 9.3.1 any referral to the NSP by the Authority on the basis that a Person has engaged in conduct (or, as the case may be, attempted or threatened to engage in conduct) of the kind detailed at paragraph 4;
- 9.3.2 an application that a Provisional Suspension should be imposed, lifted or varied pursuant to paragraph 7; and
- 9.3.3 any other matter that the Authority may reasonably refer to the NSP for determination in accordance with the NSP Rules.
- 9.4 The Authority may, as an alternative to a reference to the NSP under paragraph 9.3.1, refer a charge that a Person has engaged in conduct (or, as the case may be, attempted or threatened to engage in conduct) of the kind detailed at paragraph 4 to an Authority Disciplinary Panel for determination under the disciplinary procedures set out in the Rules of Racing. The Authority Disciplinary Panel Chairman in such cases may give such directions as he/she considers appropriate for the purpose of ensuring a fair and expeditious conduct of the proceedings, with particular regard for the sensitive nature of safeguarding cases.

10. DISCIPLINARY ORDERS AND RISK MANAGEMENT MEASURES

- 10.1 NSP Tribunals and Authority Disciplinary Panels may impose such disciplinary orders and/or risk management measures as they see fit. However, the Authority envisages that the following range of disciplinary orders and risk management measures are appropriate where, on the balance of probabilities, an NSP Tribunal or Authority Disciplinary Panel concludes that a Person has engaged in conduct (or, as the case may be, attempted or threatened to engage in conduct) of the kind detailed at paragraph 4:
- 10.1.1 a reprimand/warning;
- 10.1.2 an order to undertake specified training;
- 10.1.3 an order requiring an individual to be monitored in specific matters;
- 10.1.4 suspension for a specific period of time from involvement in racing activities under the auspices of the Authority on such terms and conditions as the NSP Tribunal or Authority Disciplinary Panel considers appropriate; and



10.1.5 permanent exclusion from involvement in racing activities under the auspices of the Authority on such terms and conditions as it considers appropriate.

10.2 The Authority may publish and/or share details of disciplinary orders and risk management measures on a 'need to know' basis, in such form and manner, and to such extent, as it deems necessary for the purposes of enforcement and/or compliance. The Authority may also take such administrative steps as it deems necessary or appropriate in order to give effect to disciplinary orders and/or risk management measures imposed by NSP Tribunals and Authority Disciplinary Panels (i.e. such disciplinary orders and/or risk management measures will not require any further act of ratification by any other body).

11. CONCLUSION OF CASES WITHOUT REFERRAL

11.1 If, at any stage prior to a referral under paragraph 9, the Authority concludes that (i) there is insufficient evidence to charge/proceed with disciplinary action, and/or (ii) a referral would not further the aims of these BHA Safeguarding Regulations, and/or (iii) there is any other bona fide reason for the Authority not to refer the matter, then the Authority may take such other action as it considers appropriate in all the circumstances of the case. For example, without limitation, the Authority may inform a Person that he/she has no case to answer, provide a Person with guidance as to his/her future conduct, or refer the matter to another body (where the Authority is satisfied that other body will deal with the matter effectively).

12. MISCELLANEOUS

12.1 These BHA Safeguarding Regulations are to be interpreted and applied by reference to their core aim of ensuring the safety and welfare of Young Persons and Adults at Risk. Such interpretation and application shall take precedence over any strict legal or technical interpretations that may otherwise be proposed. The BHA's Safeguarding Policy and any related documents that may be published by the BHA from time to time may be referred to as interpretative aids.

12.2 In the event that any incident or other matter occurs that is not provided for in these BHA Safeguarding Regulations (whether it relates to conduct, jurisdiction, investigation, procedure, sanction or otherwise), then the Authority, Authority Disciplinary Panel Chairman (following a referral to an Authority Disciplinary Panel), or (following a referral to the NSP) the NSP President or any appointed NSP Tribunal may take such action as considered appropriate in the circumstances, taking into account the specific circumstances of the individual case and the principles of natural justice and fairness.

12.3 Minor practical or technical points will not serve to invalidate the procedure or any decisions or findings made under these BHA Safeguarding Regulations, so long as the principles of natural justice and fairness are not infringed.



- 12.4 These BHA Safeguarding Regulations are, save where otherwise stated, intended to operate on a stand-alone basis without reference to the Authority's disciplinary procedures under the Rules of Racing or otherwise. However, in the event that any matter or conduct falling under these BHA Safeguarding Regulations also falls under the Rules of Racing or any other relevant Authority rules, regulations or procedures (as may from time to time be in force), or is subject to investigation by the police or other public authority (or analogous body, such as another sports governing body), or is subject to any other legal/regulatory/disciplinary process, then the Authority, Authority Disciplinary Panel Chairman (following a referral to an Authority Disciplinary Panel), or (following a referral to the NSP) the NSP President or any appointed NSP Tribunal, may at any point temporarily suspend the procedure under these BHA Safeguarding Regulations. For the avoidance of doubt, in the event that any matter or conduct falling under these BHA Safeguarding Regulations also falls under the Rules of Racing or any other relevant Authority rules or regulations, the Authority expressly reserves its right to bring proceedings under those other rules or regulations (regardless of whether proceedings are also brought under these BHA Safeguarding Regulations).
- 12.5 Save to the extent that disclosure and/or publication is provided for in these BHA Safeguarding Regulations, or is otherwise in accordance with the law, all matters considered under these BHA Safeguarding Regulations, will, so far as practicable, be regarded as confidential and used only for the purposes of these BHA Safeguarding Regulations.
- 12.6 These BHA Safeguarding Regulations are governed by English law.
- 12.7 In the case of any conflict between the BHA Safeguarding Regulations and the NSP Rules, the latter shall take precedence in relation to matters that have been referred to the NSP.
- 12.8 If any part of these BHA Safeguarding Regulations (including the NSP Rules) is ruled to be invalid, unenforceable or illegal for any reason, that part will be deemed deleted, and the rest of these BHA Safeguarding Regulations will remain in full force and effect.
- 12.9 Neither the Authority, nor any person employed by or appointed to assist the Authority, will be liable to any party for any act or omission unless it is actuated by malice or bad faith.
- 12.10 These BHA Safeguarding Regulations will come into effect on 1st January 2019. The Authority may amend these BHA Safeguarding Regulations from time to time. Such amendments will come into effect on the date specified by the Authority.