

## Betting integrity issues paper: inside information and fair and open betting

October 2011

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### 1 Introduction

- 1.1** This paper sets out a number of issues relating to fair and open betting, on which the Gambling Commission (the Commission) seeks further information and views. The issues are relevant to both sports and non sports betting, and we seek views from all those with an interest in the integrity of sports and in betting on both sports and non-sports event.
- 1.2** In particular, this paper seeks opinions on the range of the circumstances which are relevant in considering whether using inside information for betting is *misuse* of that information. By 'misuse' we mean actions that would be considered substantially unfair and/or cheating or fraud depending on the context. The paper invites views on what is 'fair and open' in the betting context and also considers the application of appropriate safeguards and sanctions by betting operators, Sports Governing Bodies (SGBs), employers, the Commission and other enforcement bodies such as the Police. We also discuss betting via agents/ third parties, betting via agents on exchanges and betting operator terms and conditions.
- 1.3** In horse and greyhound racing in Great Britain, use of inside information is traditionally not only permitted (in certain circumstances set out in the sport rules) but its use is integral to the economics of the sports. The paper invites discussion of the extent to which disclosing information to a punter explaining that others may be at an information advantage makes an activity fair and open – invoking the caveat emptor or buyer beware principle. For example, are punters made sufficiently aware they may be betting against those legitimately using inside information? Should there be additional restrictions on how those with inside information can bet or disclosure requirements on them to support the buyer beware principle? Is the answer any different in respect of those betting on exchanges where the counter party is anonymous or in respect of casual as opposed to regular punters?
- 1.4** Responses to this discussion paper will help inform and clarify the Commission's role in supporting and encouraging fair and open betting in its work with betting operators, sports bodies and other regulators. Following consideration of the responses to this paper and ongoing work, the Commission intends to issue a policy position paper in 2012, and may consider amending its Betting Integrity decision making framework.
- 1.5** As a result, the Commission may implement changes to its approach in investigating cases of potential misuse of inside information and in applying sanctions, such as voiding. In addition, the Commission may ask sports bodies to adapt their rules to take account of issues raised as part of the debate, and we may propose or even require betting operators to also implement changes. Finally, it is an option for the Commission to make recommendations to Ministers as part of its statutory advisory role should there be areas where further action is needed.

## 2 Background and context

### The regulatory framework and the Commission's approach to date

- 2.1** The Commission has undertaken significant work in the area of betting integrity through the work of a dedicated Sports Betting Intelligence Unit (the SBIU), and working in partnership with Sports Governing Bodies, and betting operators. The background and the Commission's approach to date can be seen in the following papers, which are available on the Commission's website:
- [Betting integrity policy position paper](#) (March 2009)
  - [In-running \(in-play\) betting position paper](#) (March 2009)
  - [Betting integrity decision making framework](#) (December 2010)
- 2.2** A key component of the Commission's work on betting integrity is facilitating the work of SGBs and betting operators in maintaining integrity in sports betting through the gathering and appropriate release of information to sports bodies and betting operators, subject to legal restrictions and agreements set out in Memoranda of Understanding. This work is handled by the Commission's SBIU.
- 2.3** Sanctions available to SGBs and betting operators are often the most appropriate in providing timely and effective action in cases where rules/terms and conditions have been broken. However, the Commission has also used its own enforcement powers in cases relating to the misuse of inside information. In one case, the Commission applied its power to void bets. In that case, the individuals employed by phone line operator Virgin Media were misusing inside information (their access to Virgin's data on voting patterns) to place substantially unfair bets on which contestants would be eliminated from the X Factor<sup>1</sup>. In one further case, we issued a caution for the offence of cheating where the misuse of inside information was relevant<sup>2</sup>.
- 2.4** This review will help the Commission clarify its approach to assessing and investigating suspected misuse of inside information and its consideration of the appropriate application of sanctions – both criminal and civil. Although we expect that it will continue to be appropriate for sanctions to be applied by our partners in the majority of cases, the review will help the Commission in considering the application of its powers, such as the powers to void bets under Section 336 of the Gambling Act 2005 (the Act) or consider criminal prosecution under Section 42 of the Act.

### Recommendations of the Parry Report

- 2.5** In mid 2009 the then Minister for Sport brought together a panel of experts to look at a range of betting integrity issues, and to make recommendations for an integrated strategy to uphold integrity in sports and associated betting.
- 2.6** In February 2010, the Ministerial Panel published its report (commonly referred to as the Parry Report). One of the recommendations of the report was that a Code of Conduct on integrity in sports in relation to sports betting should be adopted by sports bodies. The Code would cover minimum standards which all sports shall observe and cover in their rules on betting. In relation to inside information, the Code would state that sports bodies' rules and regulations must include:
- a provision that a participant shall not use in relation to betting any inside information that is not publicly available and which has been obtained by virtue of the participant's position within the sport, and in this respect SGBs should within their rules clearly define what is meant by 'inside information'

<sup>1</sup> Further information on this case is [available on the Commission website](#).

<sup>2</sup> Further information on this case is again [available on the Commission website](#).

- drafting to explain what is meant by ‘not publicly available.’

- 2.7** A further recommendation was made in relation to betting operator terms and conditions – that betting operators should consider amending their terms and conditions to make the contravention of sports or other professional or employer rules on betting a breach of the operator’s own terms and conditions. The Remote Gambling Association (RGA) and the Association of British Bookmakers (ABB) adopted this recommendation and some betting operators have incorporated such a provision in their terms and conditions, but the change has not yet been made consistently across the industry.
- 2.8** The relevant extracts of the Parry Report are attached at Appendix A.

### **Limits to this issues paper**

- 2.9** This issues paper covers a wide range of fair and open betting issues connected with inside information and betting through agents. However we do not wish to re-open previous consultations or policy discussions which the Commission has recently completed relating to betting integrity. At this stage, we have not identified any evidence which would lead us to change our policy positions on in-running betting or the use of certain technologies in betting. We explain this position further later in the paper. This paper does not cover issues relating to spread betting, which is regulated by the Financial Services Authority. However, the Commission does take an interest in integrity issues relating to spread betting on sports and has taken consideration of these in the work of the SBIU.

## **3 Issues for discussion**

- 3.1** This section sets out a number of issues for discussion. As a risk-based regulator, we are seeking evidence as to the level of risk that these issues raise and whether any further proportionate action should be taken to mitigate this risk<sup>3</sup>. In many circumstances, the Commission’s role is to support other bodies in their actions – including sports bodies, employers and betting operators. This is not an exhaustive list of issues and we welcome responses that raise further relevant points.

### **Terminology for the purposes of this paper**

- 3.2** In line with the recommendations set out in the Parry report, the Commission considers it important for SGB’s to develop their own definition of inside information which is appropriate for their sport, and which can include more detail, for example the type of individual within a sport who is likely to hold inside information. The approach taken by the sports bodies in this area is discussed further later in this paper.
- 3.3** However, for the purposes of clarity in this paper, and in cases where the Commission may need to use its own definition (such as non-sport events or sports with no agreed or with an unusual definition) the Commission considers a reasonable general definition of inside information to be:
- *Inside Information* is information relating to the participation in, or the likely or actual outcome or development of an event which is known by an individual as a result of their role in connection with that event and which is not in the public domain.
  - Information is considered to be *in the public domain* if it has been published, is on public record or is accessible by an interested member of the public.
- 3.4** The application by the Commission of a definition of inside information could have significant implications when the Commission is considering when misuse of inside

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<sup>3</sup> In determining risk to the licensing objectives, we consider the likelihood of something happening and its subsequent consequence or impact. Clearly if an event has happened then we would consider what effect upon the licensing objectives had resulted.

information has occurred and whether to apply a sanction, particularly where there may be differences between the Commission's approach and that of a sports or other body connected with the event.

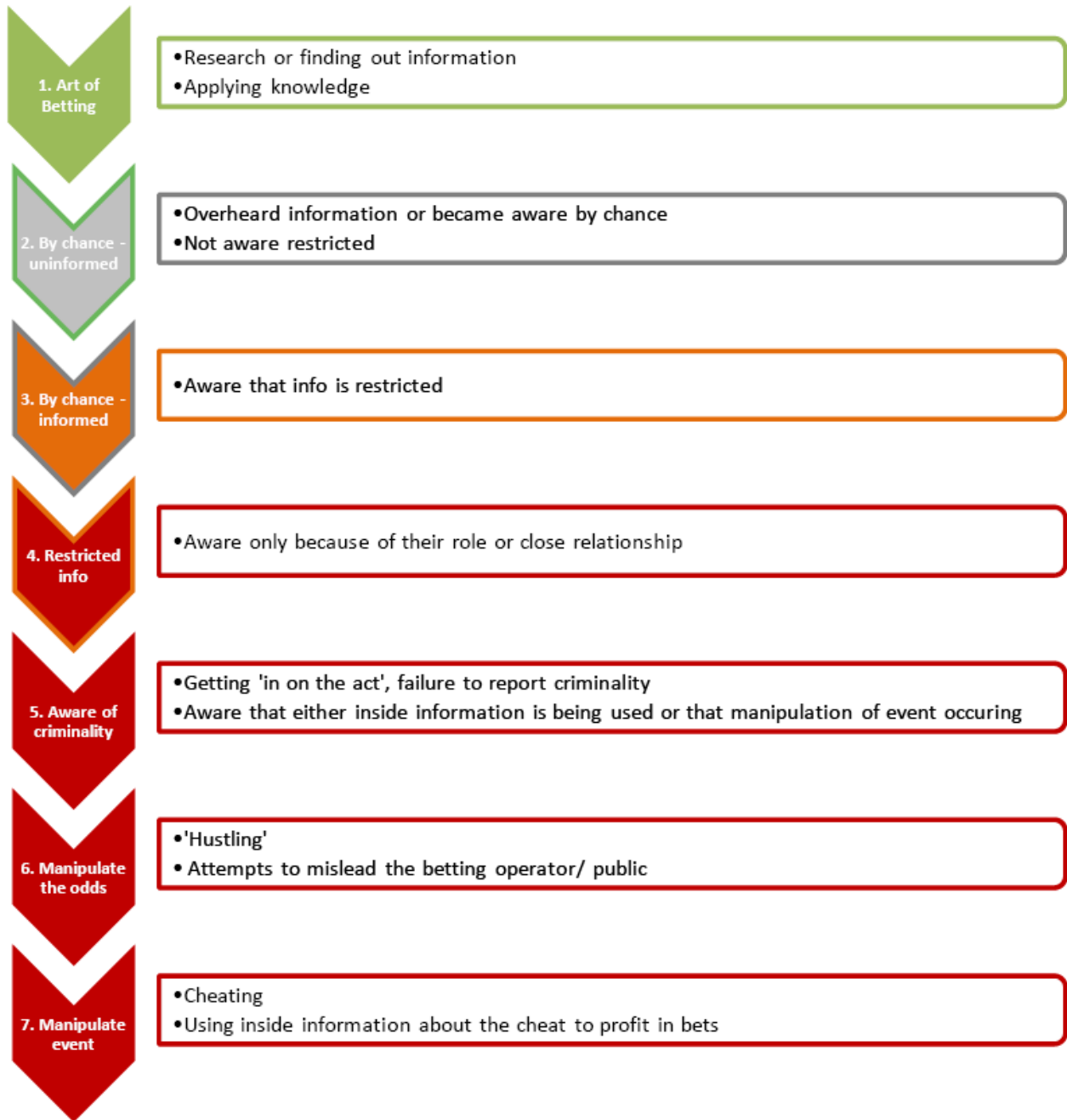
- 3.5** Of course, having inside information and using that information in a number of different contexts for non-betting purposes is perfectly normal and acceptable. This paper explores what circumstances should be considered *misuse* of inside information for betting, and those circumstances where using inside information for betting is acceptable.

**Q1** Although the Commission believes that sports should develop their own definition of inside information, specific to their sport, the Commission may apply its own definition in certain circumstances. Do you have any comments on this definition of inside information and the practicalities of applying the definition in specific cases?

### Information spectrum

- 3.6** Information can be considered in the context of a spectrum. At one end is information that may not be commonly known by the public but has been gained by an interested member of the public through legitimate means and processed intelligently to assist in betting. At the other end, is information that is controlled and used in a way is likely to constitute a criminal offence. Please see the graphic on the next page to illustrate this spectrum.
- 3.7** We have found there to be a general consensus about the outer edges of the spectrum. Clearly, manipulation of the event (for example, against the rules of the sport) and associated betting on the outcome would be considered cheating (item 7). There also appears to be a general consensus that the use of inside information to undertake a dishonest manipulation of the odds (item 6) would also risk falling into the area which should be considered illegal.
- 3.8** Equally clearly, information at the 'green' end of the spectrum would be considered legitimate information commonly used in betting circles. We believe most people would also consider item 2 to be legitimate, assuming that the individual could not reasonably have known the information was restricted.
- 3.9** We would seek particular debate on the part of the spectrum covered by items 3, 4, 5 and 6. These are areas where, for example, each sport will treat use of such information slightly differently and where different issues arise for individual sports or other events. We discuss this further in the section addressing sports bodies' rules.

### Graphic 1: Information spectrum



<p><b>1. Art of Betting</b></p>	<p>This end of the spectrum is NOT inside information, which is symbolised by the green colour in the graphic above. It relates to information which may not be readily known by the general public, but which is available to those who make the effort to find it. It includes for example:</p> <ul style="list-style-type: none"> <li>a. making an effort to watch players or horses training in a public area</li> <li>b. information provided during media interviews or during public talks</li> <li>c. information that is available to the public, even if payment is required to access the information</li> <li>d. using technologies that give information at a faster speed for in-running betting (eg high-speed internet)</li> <li>e. applying knowledge about a player or horse in certain conditions or over certain ground.</li> </ul>	<p>Not inside information</p>	<p>The Commission has no concerns about this type of information.</p>
<p><b>2. By chance (uninformed)</b></p>	<p>This is a form of information which, if used will generally NOT be considered misuse of information, although there may be some greyness in the area, as it would be necessary to establish that the individual could not reasonably have known that the information is restricted. For example,</p> <ul style="list-style-type: none"> <li>a. this is the stereotypical comment ‘overheard in the pub’</li> <li>b. receiving a tip but having no reason to believe the tip is a result of restricted information</li> <li>c. being in the right place at the right time, such as working in a hospital where a player is being treated for an injury which has not yet been made public.</li> </ul>	<p>Not misuse of inside information.</p>	<p>The Commission has no role to play in this type of information.</p>
<p><b>3. By chance (informed)</b></p>	<p>In this case, information is received by chance by an individual who could reasonably be expected to be aware that the information is restricted and should not be used for gain. An example of this form of information might be a club employee overhearing a conversation between two senior members of a football club, on club premises and where the individual is aware that the information is not in the public domain.</p>	<p>Inside information</p>	<p>Although the Commission would have some concerns in this area, it is likely that we would consider education/advice, referral to employer and other disruptive action to be appropriate.</p> <p>In particular, we wish to encourage sports and other bodies to quickly release information which is sensitive in betting terms to the public, as this is an appropriate means to limit the impact in this area.</p>

<p><b>4. Restricted information</b></p>	<p>This is information which the individual has gained because of their role in connection with the sport or event; or because of a close association with an individual with such a connection and where the individual would reasonably be expected to know that this was not in the public domain. In these cases, the outcome of the event is not affected, although the odds may be. For example:</p> <ul style="list-style-type: none"> <li>a. a club official – or contracted employee or supplier – with advance information about a team line-up or knowledge of the club manager leaving his position</li> <li>b. an employee of a television competition with advance knowledge of the health of a competitor or of early phone results.</li> </ul>	<p>Inside information</p>	<p>The Commission would have serious concerns in this area. In most cases, the appropriate form of sanction would be through the SGB or through the employer, combined with the betting operator refusing the bet under contractual terms, although criminal prosecution for fraud following police investigation would remain an option in appropriate circumstances.</p>
<p><b>5. Awareness of criminality (or malfunction)</b></p>	<p>This could be described as ‘getting in on the act’ ie where an individual identifies actual or possible criminality in either betting or a sport or other event and attempts to use that information to place bets. It could also cover an individual who becomes aware of a malfunction in processes which enables them to have prior knowledge of the outcome of an event:</p> <ul style="list-style-type: none"> <li>a. spotting a trend of bets contrary to the odds in a location close to the home of a primary player</li> <li>b. identifying individuals connected to a group of players placing bets on their team to lose</li> <li>c. being aware of an attempt to dishonestly manipulate the odds or the event although not themselves part of this attempt or having initiated or paid for this manipulation to occur</li> <li>d. becoming aware of a breach in sports rules which provides an advantage to those with advance knowledge – eg races starting early</li> <li>e. when an employee of a betting operator fails to protect the operator from exposure to risk and fails to make a 15.1<sup>4</sup> report, and instead gains from bets privately using their own privileged awareness of criminality.</li> </ul>	<p>Cheating</p>	<p>The Commission would have serious concerns in this area. For those who were aware of an attempt to manipulate the event or the odds, we would most likely consider referral to the SGB or employer to apply an appropriate sanction, although criminal prosecution for fraud following police investigation would remain an option in appropriate circumstances.</p> <p>We also believe there is a risk in current practices of betting by staff. We would encourage betting operators to consider and address this risk by means of education and employment terms. Certain individuals, such as traders, who have access to information should be educated about the proper use of that information and the sanctions which may occur.</p> <p>The Commission may also consider taking further action in serious cases. (see section on possible actions)</p>

<sup>4</sup> 15.1 is a licence condition in the Commission’s [Licence Conditions and Codes of Practice](#) which requires licensees to report suspicious events that could lead the Commission to consider making an order to void a bet or relate to a breach of a rule on betting applied by that sport governing body.

<p><b>6. Manipulation of the odds</b></p>	<p>This is a situation where a hustle or sting has occurred. An individual is using inside information in a scenario where the odds have been dishonestly manipulated over a history of events (eg outside the rules of the sport) or by issuing dishonest information or failing to issue information in order to deliberately affect the betting odds and uses that privileged information differential to place bets against the market.</p> <p>We wish to be careful to distinguish between common activities in some sports such as controlling handicap marks, and activities which are deliberately dishonest and contrary to the rules of the sport. A comparison to the financial sector may be relevant. For example, issuing false information about a company's performance would clearly be dishonestly manipulating the market. However, using common accountancy practices to throw a positive light on a company's performance would be acceptable, so long as accountancy rules were observed. Whilst it is difficult to draw the line between the two, it is necessary to do so. We believe that the example about issuing false information applies in the same way for sport.</p> <p>A similar issue might be activity which uses weight of money (rather than information) to manipulate the odds available in the market – we welcome views on the extent to which this practice is appropriate in betting.</p>	<p>Cheating</p>	<p>As above</p> <p>In identifying any cases which the Commission would consider a priority, we would wish to apply consideration of what the public/ betting operator could reasonably have known. For example, there is a difference in issuing misinformation from a privileged position, compared to low-key 'ramping' or misinformation from an individual in a position of ignorance.</p>
<p><b>7. Manipulation of the event</b></p>	<p>In this case, an individual has manipulated the conduct of an event to achieve a result or an occurrence within the whole event and uses that information to place bets. For example:</p> <ol style="list-style-type: none"> <li>a. 'spot fixing' – we use this term to refer to fixing individual elements of a match, race or event (but not necessarily the overall outcome) for the purpose of speciality bets, such as first penalty</li> <li>b. match or event fixing – deliberately losing or being part of a collusion to fix the match, race or other event, and using information about the fix to place bets.</li> </ol>	<p>Cheating</p>	<p>As above</p>

- Q2** Do you believe the information spectrum graphic on page 5 reasonably demonstrates the types of information which is available in connection with sport and non-sport betting?
- Q3** Do you agree that there is consensus around the two ends of the spectrum? If not, what issues does the spectrum not address?
- Q4** What are your views on each of items 3, 4, 5, and 6 of the spectrum? For your sport or organisation, would use of such information be considered misuse?

## Sports rules

**3.10** Sports bodies have a number of options open to them in tackling the misuse of inside information in their sport. They can (amongst other options) choose to prohibit participants and other key individuals from:

- betting on the sport, on particular events or laying to lose
- using inside information for betting
- disclosing inside information for reward or gain
- disclosing inside information in a deliberate or careless manner.

**3.11** In addition, sports bodies can:

- create systems which restrict access to inside information, and to players and locker rooms where inside information is available
- introduce education systems to increase awareness of betting issues in participants
- require sports participants to report requests for inside information for reward or otherwise in order to investigate and/or protect the participant from future accusations
- introduce and apply meaningful sanctions for breaches of the rules
- be proactive about releasing inside information to the public as quickly as possible to prevent misuse of that information.

## Sports rules: ability of participants and connected individuals to bet

**3.12** Many sports bodies' rules prohibit betting by the participants of the sport. In some cases, this applies to any betting on the sport or any sport covered by the same governing body. Other sports limit the restriction to events in which the individuals participate, or simply prohibit the individual from laying themselves to lose (or the horse they are connected with, as in the case of racing).

**3.13** A full restriction from betting on the sport does have the advantage of creating clear lines of accepted and unaccepted use of information for betting by sports participants. It also means that cases where the individual is involved in betting can be determined quickly. We recognise however that in some sports (mainly horse and greyhound racing) betting is very closely connected with the sport, and in fact horseracing as it exists in the UK is unlikely to be commercially viable without licensed owners and trainers betting. It can also be said that a full restriction from any betting on the sport is harder to enforce and less understandable to the participant – for example, a lower league player may not understand why he is not permitted to place bets on a top league final.

**3.14** However, in sports where betting is permitted by participants, more effort has been and is necessary to define clearly the circumstances where betting is permitted. These sports

have also invested time in implementing investigation and disciplinary procedures to tackle breaches of the rules.

- 3.15** In such sports, it is not common practice to require disclosure of betting activity by participants or those closely connected. As a comparison, certain individuals in the financial sector, for example company directors, are required to disclose their financial transactions to ensure fairness and openness. Although we recognise that there are differences between the financial and the betting sectors, the aim of the financial disclosure rules is partly to enable those individuals to continue to carry out legitimate transactions but to ensure that their involvement can be scrutinised. Failure to disclose can be seen as suspicious and carries penalties.

**Q5** In sports that permit betting by participants, do you believe more information should be disclosed about the betting of participants or other closely involved individuals as is the case in the financial sector? Should this be required by sports bodies?

### **Sports rules: disclosing inside information for reward or gain**

- 3.16** A common feature of sports rules is a provision which prohibits the disclosure of inside information for reward or gain, other than in circumstances that would be permitted by the sport. This ensures that individuals (who may themselves be restricted from betting) cannot simply sell information to others for their betting. We support sports bodies who are strengthening their rules in this way. Of course, we recognise that it can be difficult to prove that inside information was disclosed for reward or gain or even that a reward was received. However, in cases where this can be identified, it is invaluable for sports operators to have clear recourse via the application of their rules. There is also recourse via betting operators terms and conditions which is discussed further in this paper.

**Q6** Do you agree that sports bodies should prohibit in their rules the disclosure of inside information for reward or gain (other than as permitted in the sport)?

### **Sports rules: disclosing inside information in a careless or reckless manner**

- 3.17** It is rare for sports rules to prohibit release of information in a careless or reckless manner. Some sports bodies have undertaken detailed reviews of their rules relating to inside information and actively decided against such a restriction. However, in a limited number of cases, sports rules include an advisory aspect encouraging participants to be aware of the ways in which they release information and to refrain from passing information other than is appropriate.
- 3.18** Sports have generally taken the approach that it is more appropriate to handle this issue through education of players and other connected persons, rather than through rules and disciplinary procedures.

**Q7** Do you have any comments on the approach taken by sports bodies to handle careless release of inside information by means of education or advice within rules?

### **Handling of inside information by sports and other bodies**

- 3.19** Many individual sports bodies have procedures for releasing inside information in a timely manner to reduce the risk that the information could be misused for betting. An example of

this would be releasing team line-ups in a planned and coordinated manner, before the 'inner circle' becomes too wide to manage. Of course, we recognise that there are types of information which cannot be released – such as information about an injury which could be manipulated by opponents during the event, or information which is highly commercially sensitive.

**3.20** Naturally, there are various commercial drivers for sports bodies to release information speedily – for example to drive traffic through their website rather than let the media release information. In cases such as contract negotiations, the commercial drivers ensure that the information is kept carefully restricted.

**3.21** We would encourage sports bodies, individual teams and individual participants to continue to release information as soon as possible to reduce the risk of misuse of inside information. In particular, processes may not be in place for the release of information which is not part of routine procedures, such as unexpected changes to personnel. This need not necessarily mean a bureaucratic system, but rather embedding a culture where the sensitivity of information is considered in its handling. Since the commercial drivers for handling information encourage sports and other bodies to the same conclusions, we believe this to simply be good practice.

**3.22** This is also an area where non-sports bodies should consider the release of information which may be sensitive in betting terms to avoid accusations of misuse by those involved.

**Q8** Do you believe sports and other bodies have sufficient procedures to ensure timely release of inside information to avoid the risk of misuse of that information? Do you believe this is the case even in circumstances which are not routine?

## Restrictions on access to information

**3.23** In many sports, systems have been introduced to restrict access to players in circumstances when inside information may be released accidentally – such as restricting locker room access, or creating a list of prohibited persons with whom participants are not permitted to interact. Another means of reducing the likelihood of inside information being communicated either deliberately or unintentionally is restricting the use of mobile phones etc, at events or in changing rooms.

## Social networking

**3.24** Social networking sites present both a challenge and an opportunity in the context of inside information:

- Releasing information on social network sites which are open to the public (ie where anyone with sufficient interest can access the information) can be a positive action in that it reduces the value of that information for betting purposes and has the effect of putting the information in the public domain. Of course, sports participants need to be aware that their information is/will be public and act accordingly.
- Where access to a social networking site is limited (for example groups where membership has to be approved), sports participants and others need to be aware that it is unlikely this would be considered putting information in the public domain. Therefore releasing information in these circumstances could be considered misuse of that information. There is a tendency for sports participants to consider communications like these as informal – the equivalent of a chat at a party or on the phone. Where membership is strictly limited to close friends and family, this may be the case and information is likely to be released only where it would be communicated in person. However, where

membership is semi-open, caution has to be taken since this may be communication of inside information either carelessly or for reward. A long established tactic for potential corrupters has been to informally establish a relationship with a participant with the intention of grooming them for a potential fix. Social media open another potential front for such activity – a point which is being actively covered in existing player education materials.

**Q9** Do you have any comments on the use of social network sites and the release of inside information?

## Education

**3.25** Sports bodies (sometimes with sponsorship from betting trade bodies) have a range of training programmes to help their participants understand their roles and responsibilities in keeping inside information restricted and releasing other types of information in a timely manner. These education programmes have been very successful in raising awareness amongst participants of the issues involved. The Commission supports these types of initiative to prevent the misuse of inside information, as prevention reduces time and expense in investigating a suspected integrity breach and applying appropriate sanctions and also maintains the reputation of the sport.

## Betting operator terms and conditions

**3.26** The Parry report recommended that betting operators should consider amending their terms and conditions to make the contravention of sports or other professional or employer rules on betting a breach of the operator's own terms and conditions. Both the RGA and the ABB adopted the recommendation, and at least some of their members have implemented the change.

**3.27** Having evidence of a breach of the operator's terms and conditions strengthens the ability of the operator to refuse to pay out when suspicious betting patterns have been identified, and enables the Commission's powers to be more easily engaged. This form of disruptive activity can be very effective in preventing misuse of inside information (as well as other breaches of sports or employer rules). It also strengthens the ability of other bodies such as sports governing bodies or employers to apply sanctions by other bodies as it can be evidence of acting dishonestly when it may not be possible to prove match-fixing.

## Betting by agents/ third parties

**3.28** In sports where betting is permitted, it is reasonably common practice for participants to bet via an agent or a third party. The reasons for this might be purely practical (ie getting to the shop or computer), or it could be to ensure that large amounts can be placed with bookmakers without exceeding individual betting limits. Another reason might be to achieve better odds than might be available by betting directly and openly or in large noticeable bets. It might also be to place bets which will move odds available in the market in a particular way and then place larger bets taking the opposing position at enhanced odds. Finally, it may be that bookmakers would not accept any bets at all from the individuals concerned, as the bookmakers would consider them too high-risk because of their inside knowledge or proven ability to profit from betting.

**3.29** This type of arrangement may or may not breach sports body or employer rules on releasing inside information. However, where it is permitted by the sports rules, there are queries about whether the practice is fair and open. Operators already have in place some restrictions on acting or betting on behalf of another or using another's identity to bet – this is most often targeted at preventing money laundering, credit card fraud or underage betting. Some consider this practice unfair and potentially fraudulent, although not all

consider it to be so and it remains untested by the courts. Even amongst those who consider the practice to be at the margins of fraudulent, there are those who also consider it to be a commercial issue for the betting operator which is already appropriately addressed by their risk management processes.

**3.30** It would be possible for betting operators to amend their current terms and conditions to explicitly state that betting on behalf of another or using another person's identity to bet would be considered misrepresentation and could result in the betting contract being void and potentially open the punter to prosecution. This would not require operators to introduce any new procedures to identify the individual's betting beyond their current money laundering or age verification procedures. Instead, it would give operators an unambiguous means of voiding a bet where it could be identified after the fact and there would also be scope for suing for return of winnings in cases where winnings had already been paid out.

**3.31** A similar issue is coordinated betting – where a number of individuals choose to place bets at a time and in a manner to ensure that they all get the best odds before bookmakers can react to the market and narrow the price. Many consider this to be purely a commercial matter for operators to address as part of their risk management processes, and some operators do restrict bets from the same source. Coordinated betting can be combined with the use or misuse of inside information, which may be unfair but there are differing opinions on whether coordinated betting in itself presents risks other than the commercial risks to the operator.

**Q10** Do you believe that sports bodies should specifically prohibit betting via agents or third parties? Do you believe this should be the case even where betting by the participants of the sport is permitted?

**Q11** Is it appropriate for betting operators to be encouraged or required to prohibit betting via agents or third parties in their terms and conditions? What would the commercial impact of this be?

**Q12** Is it acceptable to distort markets with weight of money, with a view to taking a larger opposing position at enhanced odds once the market moves?

**Q13** Do you believe that coordinated betting by a group of individuals is fair and open?

### **Betting operator employment terms and conditions**

**3.32** Betting operators take different approaches to betting by their staff. It is very common for staff who work with betting operators to have a natural interest in betting and the events which are the subject of betting, and this is of course encouraged by their employer. In some cases, betting is restricted to bets with a bookmaker other than the employer and in other cases, betting within the company is permitted or indeed betting is *restricted* to bets with the company.

**3.33** In either case, it is appropriate for betting operators to include in terms of employment and in their internal procedures restrictions on the use of inside information gained in the course of their employment. Where such terms of employment are in place they apply to all members of staff who may come into contact with inside information and who could also be expected to be aware that it is restricted – this includes for example traders and senior customer service staff.

**3.34** It is likely that cases where information had been misused by betting operator staff would only come to light as a result of a wider investigation into misuse of inside information. However, when it does come to light, operators should and frequently already do have

procedures to handle the situation, particularly to deter future instances of misuse. Betting operators do have a commercial driver for mitigating this risk because individuals who act on inside information for their own purposes are often breaching other procedures - such as reporting information which would change the odds the betting operator offers or which might otherwise affect the market.

**Q14** Do you believe betting operators already have sufficient procedures in place to mitigate the risk of their staff misusing inside information they have gained in the course of their work?

### **Other employer terms and conditions**

**3.35** In the case of non sport related events, it is often the case that an employer has the duty of care over inside information. This is the case for example for TV shows where betting is frequent, and where the media company which operates the show must ensure that staff are restricted from using inside information for betting. We would encourage anyone who is managing an event which is betting sensitive to do so. Of course, there is again a commercial incentive for employers to take steps to restrict staff as the public perception of running a fair and open event is important.

### **Exchanges – use of inside information and betting via agents/ third parties**

**3.36** It may be appropriate for the Commission or other bodies to consider different responses where different betting mechanisms are used. For example, where a bet using misleading information is placed with a bookmaker, they have recourse to their contractual terms to refuse to pay the winnings in suspicious circumstances, and so referral to the operator to handle may be appropriate. They also have the ability and resource to identify suspicious betting. They can price bets in order to take account of the risks known to them – this is particularly true of novelty bets. Indeed operators often use novelty bets as a marketing tool, where the prices may not reflect the risks, but represent a good public relations exercise.

**3.37** The betting operator in this case (the exchange) may still be best placed to take action. Indeed exchanges do have systems in place to do this and have the commercial driver of preserving their reputation to do so. However, there is less direct incentive to spot misuse of inside information or the use of agents or third parties to place bets.

**3.38** The very nature of betting on an exchange means that you may be betting against others that may have more information than you. Since the parties to the bet are anonymous to each other, it could be argued that there is no change in position in the fairness of the bets when they are placed by an agent or third party. For example, an individual betting on an exchange already knows that he may be betting against the owner of the horse, and the owner may be using inside information for that bet. The punter may not care if the owner is betting directly through a third party or he may consider that a pattern of betting on an exchange can help him identify those with inside information in the same way as a betting operator can.

**Q15** Do you consider that different responses are required for those who misuse inside information on betting exchanges?

**Q16** What are your views on betting by agents or third parties on exchanges? Do you consider that the bets remain sufficiently 'fair and open' since the parties to the bet are already anonymous to each other?

## Issues created by different betting technologies

**3.39** The Commission considered the use of different betting technologies in relation to in-running betting during the course of 2008. The position paper 'In-running (in-play) betting: position paper - March 2009' outlines our approach to these technologies. In summary, the Commission feels that using information received as a result of these technologies is not misuse of inside information. At present, we believe that as long as betting customers are made sufficiently aware of their position and the respective positions of other players and the betting operators, there are no specific additional risks created by these technologies. In other words, so long as punters are made aware that others may have information slightly earlier, the practice is fair. This is already covered by the Information Provision Annex to the Remote Technical Standards (IPA 3). We do not believe that in-running betting, such as laying fallers, should be restricted at this time.

## Issues created by different types of bets

**3.40** The Commission has so far not considered it necessary to restrict the type of bets that the operators may accept, allowing novelty and speciality bets to operate. However, there are two aspects which we wish to keep under review:

- Whether there should be further information made available to betting customers about novelty bets, about the fact that there may be individuals betting on them with inside information, and that novelty bets are in principle more at risk of manipulation'.
- We have not identified a trend of betting integrity cases being connected in particular to different types of bets. However, should we in the future establish a pattern of a higher number of betting integrity cases relating to different types of bets, we may consider it more appropriate to restrict the bets than dedicate significant resource to tackling the issue after the fact. This is however, not an area we are looking at currently.

**Q17** Do you believe that further information should be made available to betting customers about novelty bets and the fact that there may be individuals betting with inside information?

## Application of meaningful sanctions

**3.41** This paper has set out some of the ways in which sports rules, employer terms, and betting operator terms can be and are used to prevent misuse of inside information. It is vital that meaningful sanctions are available to uphold these rules.

**3.42** One of the key strands of the Commission's approach to inside information is supporting the disruptive action that other bodies can carry out. In many cases, these sanctions are the most appropriate form of action. These type of sanctions can be applied speedily and efficiently, they can be tough by not only removing the ability of the individual to continue their betting activity but also by removing their main livelihood, and the burden of proof can be reduced which makes applying the sanctions more possible. Sanctions applied by other bodies can also work alongside Commission or police action.

**3.43** The Commission would be less likely to progress a criminal prosecution where the activity concerned did not breach the relevant sports rules, in part because we consider that the chances of success would be more limited. However, it is feasible that the Commission could use its powers of voiding where use of inside information has yet to be proved a breach of rules (a decision to void must be taken within six months of the event and may be taken before an investigation by the sports body is complete) or where it considered there to be a misuse of inside information even if the sports rules did not deem it so (for

example, if there had been a repeated pattern of potential misuse by those involved in other sports).

- 3.44** We set out in Appendix B a summary of all the key sanctions available to the Commission and other parties to prevent, disrupt and punish misuse of inside information.

**Q18** Do you have any comment on the available sanctions or the Commission's approach to taking action and supporting sanctions applied by others?

## 4 Responses to this document and further information

- 4.1** Responses to the questions raised in this issues paper and any other comments should reach the Commission by 11 January 2012. The Commission is committed to full and open consultation and would welcome comments on any aspect of this document.
- 4.2** We would prefer to receive your comments by email. Please send them to [consultation@gamblingcommission.gov.uk](mailto:consultation@gamblingcommission.gov.uk). If you would prefer to post your comments please send them to:  
Consultation Co-ordinator  
Gambling Commission  
Fourth Floor  
Victoria Square House  
Victoria Square  
Birmingham B2 4BP
- 4.3** When responding, please state whether you are responding as an individual or representing the views of an organisation. If responding on behalf of an organisation, please make clear who that organisation represents. If responding as an individual, please mention your own interest.
- 4.4** Please note that responses may be made public or published in a summary of responses to the consultation unless you state clearly that you wish your response or name to be treated confidentially. Confidential responses will be included in any statistical summary of numbers of comments received. If you are replying by email or via the website, unless you specifically include a request to the contrary in the main text of your submission, the Commission will assume your consent overrides any confidentiality disclaimer that is generated by your organisation's IT system.
- 4.6** Any information or material sent to us and which we record may be subject to the Freedom of Information Act 2000 (FOIA). The Commission's policy on release of information is available on request or by reference to our website at [www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk). The Commission will treat information marked confidential accordingly and will only disclose that information to people outside the Commission where it is necessary to do so in order to carry out the Commission's functions or where the Commission is required by law to disclose the information. As a public authority the Commission must comply with the requirements of FOIA and must consider requests for information made under the Act on a case-by-case basis. Therefore when providing information, if you think that certain information may be exempt from disclosure under FOIA, please annotate the response accordingly so that we may take your comments into account.
- 4.7** All information provided to the Commission will be processed in accordance with the Data Protection Act 1998. However, it may be disclosed to government departments or agencies, local authorities and other bodies when it is necessary to do so in order to carry out the functions of the Commission and where the Commission is legally required to do so.

- 4.8** Following the end of the consultation the Commission will prepare a summary of responses, which it will publish along with its final document in early 2012.

**Gambling Commission October 2011**

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## Keeping gambling fair and safe for all

For further information or to register your interest in the Commission please visit our website at:  
**[www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk)**

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**CON 11/11**

## Appendix A - Extracts from the Report of the Sports Betting Integrity Panel<sup>5</sup> February 2010

### Extract relating to inside information

#### 3. Inside Information

Sports Governing Bodies shall ensure that they include in their rules and regulations a provision that a participant shall not use in relation to betting any inside information that is not publicly available and which has been obtained by virtue of the participant's position within the sport, and in this respect Sports Governing Bodies should within their rules clearly define what is meant by "inside information".

*Notes to Code 3:*

*1. It is vital that every Governing Body ensures that their sports have in place robust rules to prevent the misuse of inside information. There is no generic definition in this Code of "inside information" as this will differ between each sport, but Sports Governing Bodies should ensure that their rules and regulations are sufficiently wideranging to cover all perceived eventualities.*

*By way of example only, the British Horseracing Authority includes within its rules the following definition of "inside information":*

*"Inside Information is 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."*

*2. Whether information is in the "public domain" will be an issue for Sports Governing Bodies to consider when drafting their rules and regulations. An example of information which is not considered to be in the public domain is information that "...has not been published, is not on public record and is not easily accessible by an interested member of the public."*

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### Extract relating to betting operator terms and conditions

#### Recommendations for the betting industry

1.11 For operators to vary betting terms and conditions to make the contravention of sports or other professional or employer rules on betting a breach of the operator's own terms and conditions.

Although there will need to be further discussions between the betting industry and the Gambling Commission on these matters, the industry has agreed in principle that it should explore the workability and effectiveness of these suggested changes.

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<sup>5</sup> Source: [National Archives – DCMS press release](#)

## Appendix B Summary of sanctions available

Sanctions/actions available to other bodies	Explanation	Circumstances of use	Relationship to the inside information spectrum	Issues
<p>Refer case to operator: operator may refuse to pay bet paid out based on contractual terms.</p> <p>They may also close betting accounts and blacklist the individuals to disrupt further activity.</p>	<p>The outcome of this sanction is that there is no benefit to the suspicious betting activity – which acts as a deterrent to both the individual involved and to other parties.</p>	<p>This will be a very common form of disruptive activity - we certainly expect it to be the norm for all cases where inside information is used</p> <p>It is also particularly likely to be applied in conjunction with other sanctions – for example, the Commission or police could proceed with a criminal caution or prosecution or SGB's could take further sanctions.</p>	<p>3,4,5,6 and 7</p> <p>5,6,7</p>	<p>A referral to an operator may involve providing information from GC investigations to support the refusal to pay the bet on contractual terms.</p> <p>However the Commission must be careful particularly with information received during a criminal investigation and specific information protocols have been established to cover this issue.</p>
<p>Refer case to Sports Governing Body</p>	<p>This can involve – pre-game warning, financial penalty, suspension or lifetime ban (or combination of these).</p>	<p>Most frequently this would take the form of a disciplinary sanction which would have an impact on the participant and provide a wider deterrent within the sport.</p> <p>Again, the action can be taken in conjunction with Commission or police sanctions.</p>	<p>3,4</p> <p>5,6,7</p>	
<p>Refer case to employer</p>	<p>An effective form of sanction and disruptive action is for the employer to take action under their employment terms and conditions – this could involve oral or written warnings, change of role, or termination of contract.</p>	<p>Misuse of inside information is not restricted to sports betting – for other areas eg TV shows, this type of action is particularly relevant.</p> <p>As before, the action can be taken in conjunction with Commission or police sanctions.</p>	<p>3,4,5,6,7</p>	
<p>Refer case to police/ CPS for other possible offences</p>	<p>Other relevant offences might be fraud, conspiracy to defraud, bribery, and/or dishonesty .</p>	<p>An investigation may bring to light other offences ( not actionable by the Commission) for referral to the police/ CPS. However, we must be aware that prosecution of most of these offences is untested in the gambling arena. We have an ongoing role to monitor which offences are considered relevant to betting cases.</p>	<p>Other offences could be identified in any case, but most likely to be connected to 5,6, and 7 on the inside information spectrum.</p>	<p>This is relevant for some current external cases and we are continuing to monitor the situation.</p>

The table below outlines the sanctions which the Commission could apply and the circumstances we envisage them being applied:

Commission available sanctions/ actions	Explanation	Circumstances of use <sup>6</sup>	Relationship to the inside information spectrum	Issues
Void the bet	Apply S336 power to void the bet.	In very broad terms this is most likely to occur in cases where the Commission has established a pattern of apparently corrupt behaviour.	May be considered relevant for items 5, 6 and 7 of the spectrum only.	
Interim Moratorium	Apply S338 to apply a moratorium to the bet in cases where the Commission suspects that it may wish to void a bet.	The moratorium lasts for 14 days and can be renewed for a further 14 day period. Therefore this is likely to be applied only where we are almost at the point of voiding a bet but suspect that the bet may be paid out in the meantime.	Similar to voiding a bet, this may be considered relevant for items 5, 6, and 7 of the spectrum only.	
Monitor with a view to taking action for possible future offences  This may be with or without taking immediate disruptive action.	Ongoing intelligence monitoring.	This type of action is likely to be considered relevant for two types of circumstance: <ul style="list-style-type: none"> <li>- We suspect that a serious offence has occurred for which we may have voided the bet and/or prosecuted but for which there was not sufficient evidence.</li> <li>- A pattern of suspicious betting has occurred, which if it continues would indicate a clear likelihood that cheating occurred in repeated offences.</li> </ul>	May be relevant for 5, 6 and 7 of the spectrum  May be relevant for 3 and 4 of the spectrum	This is a resource intensive option so should be considered only for serious individual incidences or a significant pattern of betting over time.
Caution/prosecute for cheating (Gambling Commission or police)	In cases where the individual admits the offence, and it is in the public interest to do so, we may issue a caution for the S42 offence of cheating or work with the police to do so.	A caution may be issued in any circumstance where we are prepared to prosecute and where a caution is in the public interest.	May be relevant for 5, 6 and 7 of the spectrum.	

<sup>6</sup> Please also see the Commission’s **Betting Integrity Decision Making Framework** for further information about our consideration of the appropriate means and process for betting integrity cases.

Commission available sanctions/ actions	Explanation	Circumstances of use <sup>6</sup>	Relationship to the inside information spectrum	Issues
Prosecute for cheating (Gambling Commission or CPS)	Prosecute for the S42 offence of cheating.	<p>Where both the evidential and public interest tests are met, we may consider prosecution for the S42 offence of cheating. In many cases, a decision on whether or not to prosecute may be taken in the first instance by CPS. If CPS decides not to proceed, the Commission is only likely to proceed independently in unique circumstances such as where a legal precedent is required.</p> <p>It may also be considered appropriate to take a case to prosecution in a particular sport (or against a particular type of participant) where a theme has developed to provide a deterrent effect – it is possible that a case might be taken where it would normally not be, based on the other factors alone.</p>	<p>May be relevant for 5, 6 and 7 of the spectrum.</p> <p>May be relevant for 3-7 of the spectrum.</p>	
Review the operating licence	<p>Using the powers of S116(2) to review the suitability (including the competence) of the licensee. Following a review, the Commission may decide to:</p> <ul style="list-style-type: none"> <li>- take no further action</li> <li>- give advice or a warning</li> <li>- add, remove or vary licence conditions</li> <li>- suspend or revoke the licence</li> <li>- or apply a financial penalty (if a licence breach has occurred).</li> </ul>	<p>It is possible that such a review may be appropriate should a licensee have been involved in an investigation for cheating but where a prosecution was not pursued. It is possible that this method could be used to apply financial penalties on an operator if a licence condition has been breached.</p> <p>It could also be used to give advice or add licence conditions requiring an operator to put in place improved betting integrity procedures should an investigation cast doubt on the operator's ability to do so.</p>	May be relevant for 6 and 7	
Review the personal licence	Using the powers of S116 (2) as applied by S128, carry out a review of the personal licensee.	It is possible that such a review may be appropriate should a licensee have been involved in an investigation for cheating but where a prosecution was not pursued. This method could be used to apply financial penalties on an operator if there has been a licence breach.	May be relevant for 5, 6 and 7	
Other disruptive action	Even when an issue is potentially criminal, disruptive action might often be the most effective way of addressing it.	<p>'Disruptive action' is a wide term that covers action taken to disrupt those seeking to corrupt sports betting integrity and can occur before the event has taken place, before winnings are collected or later, such that a repeat occurrence is made less likely.</p> <p>Disruptive action would normally (but not exclusively) be carried out by the relevant SGB or betting operator on the basis of information provided by the Commission. However, in this case, disruptive action by the Commission could simply be showing an interest in a case, such as interviewing individuals to demonstrate that their activity has raised a red flag and make it less likely that they will repeat that behaviour.</p>	May be relevant for 5, 6 and 7	