

GAMBLING COMMISSION

The Gambling Commission's betting integrity decision making framework

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1 Introduction

- 1.1 Under the Gambling Act 2005 (the Act) the Gambling Commission (the Commission) has powers to prosecute offences of cheating and to void bets. Our powers to prosecute cheating offences apply where a person cheats at gambling or where they do anything for the purposes of enabling or assisting another (person) to cheat at gambling.
- 1.2 We also have powers to make an order voiding an individual bet accepted by, or through, the holder of a betting specific licence. Where the Commission exercises this power, any contract or other arrangement relating to the bet will be void, and any money paid in relation to the bet must be returned to the person who paid it. The power to void a bet only applies to the parties to a specific bet; it does not apply to all bets placed on an event.
- 1.3 In addition a key component of the Commission's work on betting integrity is a licence condition (15.1)¹ which requires betting operators to share information on suspicious transactions with the Commission and sports governing bodies (SGBs).
- 1.4 In March 2009, the Commission published a policy position paper on betting integrity² that summarised the work we had done to date with sports governing bodies, the betting industry and others and outlined our commitment to strengthen the deterrents against corruption with a view to profit from betting.
- 1.5 Following on from the policy paper, in mid 2009, the then Minister for Sport, brought together a panel of experts, including key people from the principal organisations involved – from the betting industry, the police, players, fans, SGBs, the legal profession and the Commission, to look at a wide range of issues relating to sports betting integrity. They were asked to make recommendations on how the various bodies concerned could work together more effectively. The main focus was the design and implementation of an integrated strategy to uphold integrity in sports and associated betting.
- 1.6 One of the recommendations of the Panel was that:

“...the Gambling Commission should work with the police and the Sports Betting Group to publish its decision making framework in the area of betting related corruption. This would provide greater clarity of expectation over when a particular incident might be treated as a criminal investigation or a sports disciplinary matter; and the circumstances under which police cooperation or, indeed, a police lead would be appropriate.”
- 1.7 There are various published documents that help set out the Commission's decision making processes, most notably the Commission's document *Licensing, Compliance and Enforcement policy statement (September 2009)*³, or provide relevant information, such as the *Sports Betting Intelligence Unit Terms of Reference (June 2010)*⁴. This document sets out the Commission's processes and decision making framework, in the context of betting integrity and, in parts, in greater detail, from when it first receives a piece of information through to when a case is closed. The Commission's framework has been refined following the development of the Sport Betting Intelligence Unit (SBIU), another recommendation of the Panel. This document is aimed at those bodies the Commission might work with in respect of betting integrity.
- 1.8 This document may be revised from time to time to reflect any developments in the Commission's approach.

¹ [Licence Conditions and Code of Practice- October 2008](#)

² [Betting Integrity: Policy position paper - March 2009](#)

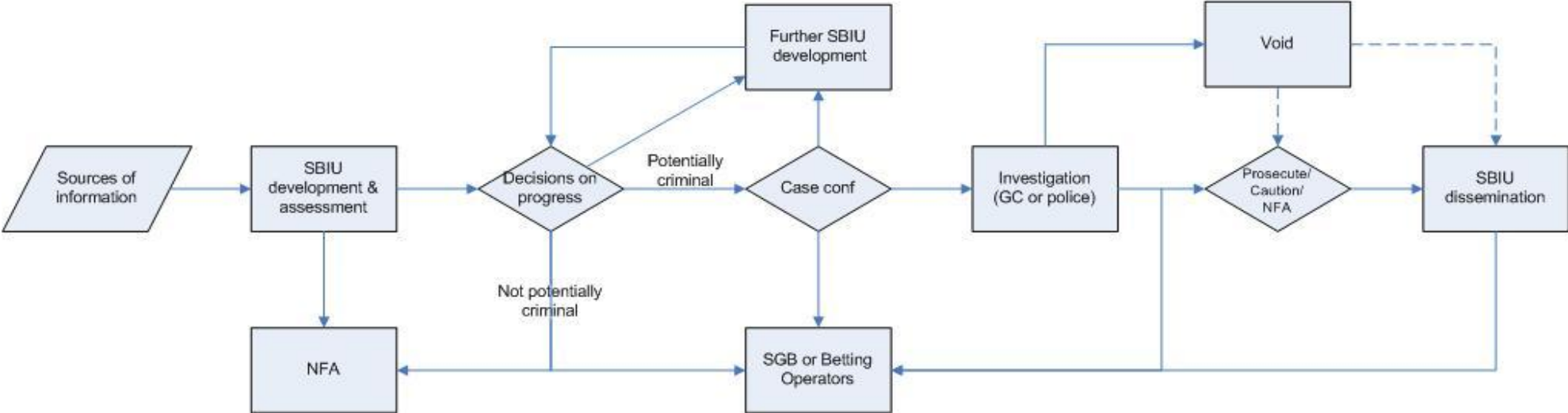
³ [Licensing, Compliance and Enforcement policy statement- September 2009](#)

⁴ [Sports Betting Intelligence Unit terms of reference- June 2010](#)

2 Summary

- 2.1** The overall aim of the Commission, and its partners, is to reduce the likelihood of corruption and where it is discovered to cause it to end. This is best achieved by working together on a combination of prevention, disruption, deterrence and sanction opportunities.
- 2.2** Pursuing a criminal sanction will not always be possible, and often will not be the most effective or efficient approach to take. It is usually not possible to prove that the result of an event has been manipulated simply by watching the event; instead, a criminal case will very often rely on establishing relationships between those involved and following flows of money. As a result it can be both very time consuming and costly. The Commission noted in its policy position paper of March 2009 that investigation and sanction by the SGB may be a more appropriate approach to achieve our aim, be quicker than criminal investigation and therefore may be the more frequently taken approach.
- 2.3** A SGB sanction can act as a timely deterrent. In short this is because the standards of proof required for a civil sanction are lesser than those required for a criminal sanction and an SGB's rules, when effectively applied can be an effective control to achieve our joint aims. Our decision making framework reflects this aim and these issues. However, each case will be considered on its merits and appropriate action taken dependent on the circumstances. Furthermore, SGB action doesn't rule out the possibility of a criminal charge brought in an appropriate case.
- 2.4** Once a piece of information is received there are broadly four key partners who can be involved in a case – the Commission, SGBs, betting operators and the police (and/or other law enforcement agencies). The flow chart overleaf, in general terms, sets out how a case progresses and the decision making processes. However, it should be noted that this model does not purport to capture all circumstances and the approach may vary according to the occasion. The flow chart will be useful to understand the structure, and different sections, of this document.

Betting Integrity Investigations Process Flowchart



3 The Commission's approach and decision making framework

Sources of information

- 3.1 The Commission receives information from a variety of sources, including:
- betting operators
 - sports governing bodies
 - law enforcement
 - other Commission work or other regulators
 - Commission's confidential hotline
 - media.

The majority of information comes from betting operators. They are required to provide us with information about suspicious betting as one of their licence conditions (15.1). Not doing so would threaten their licence. Betting operators are also obliged by this condition to pass information to SGBs where appropriate. However, betting operators can also pass other information that they consider might be of relevance to the SBIU, whether or not it reaches their criteria of 'suspicious'. The SBIU has been working closely with operators to embed this approach. The Commission is currently considering whether there is a need to amend licence condition 15.1 and related matters (a further recommendation of the Panel)⁵. The Commission can also request specific information under licence condition 15.3.

- 3.2 SGBs pass information to the Commission which can be information gained through their own means or that originally passed by a betting operator to which they have been able to add further detail.
- 3.3 Law enforcement and the media are other potential source of information, as are other regulators (for example gambling regulators overseas). The Commission might also develop information in the course of other work that is relevant to betting integrity (other betting integrity cases or regulatory work with operators) including that from our confidential hotline.

SBIU development and assessment

- 3.4 Having received the information, the SBIU will look to establish whether there is any potential criminal activity by ascertaining:
- whether there is an identifiable event (or events)
 - whether there is an identifiable participant (or participants)
 - whether there is an identifiable betting party (or parties)
 - the scope and scale of activity
 - any links to other intelligence or cases (Commission or otherwise).

The SBIU will also consider whether the activity falls within its terms of reference, in particular whether the activity:

- relates to a sporting event that occurred in Great Britain, and/ or
- involves parties based within Great Britain, and/ or
- occurred with a Gambling Commission licensed operator.

- 3.5 The quality and detail of information provided may vary substantially. Whilst the SBIU will assess all information provided it must prioritise its use of resources. Accordingly, it may be that not enough information is provided to warrant further work on an issue at that stage. For example, if a single individual or organisation considers a particular event as suspicious, but the SBIU is unable to verify important elements then it may not be

⁵ Whilst nothing in such a review would undermine the principles here this section may be expanded in due course if necessary to reflect any changes made.

considered appropriate for the SBIU to investigate it further at that stage. However, the information will be logged and if further relevant information came to light the issue could be looked at again.

- 3.6** The relevant SGB is often contacted at this stage. Where there is sufficient information to warrant further work the SBIU will attempt to ascertain the information set out at section 3.4.
- 3.7** It is important that those providing information to the Commission provide as much relevant detail as possible and provide it as early as possible (most notably the event/s, participant/s, betting party or parties and scope and scale of activity as set out in section 3.4). The more comprehensive the information that can be gained, and the quicker it is provided, the more efficiently and effectively the Commission can determine an appropriate course of action. Speed is important in processing information as the longer the period between the incident and investigation the greater the likelihood that certain evidence may no longer exist.

Decisions on how to progress the intelligence gathered

- 3.8** It may be quickly established that a referral is not suitable for investigation focused upon a criminal prosecution – for example, a player betting on themselves to win might be against the sport's rules, but it is unlikely to be a criminal offence. The SBIU would be unlikely to look into this further, unless there were other issues of relevance. Our investigatory powers, such as those under Regulation of Investigatory Powers Act 2000 (RIPA) and Proceeds of Crime Act 2002 (POCA), can only be utilised when investigating (which covers intelligence work as well as enforcement work) a potential crime. As such we could not use our powers once we consider an issue unsuitable for investigation.
- 3.9** Once it has been established to the satisfaction of the SBIU that there is potential criminal activity (by reference to the information in section 3.4) a decision (by the Commission's intelligence and enforcement teams in collaboration) is taken as to how to progress the issue. Broadly speaking this establishes whether the Commission could progress a case, whereas the case conference stage establishes whether it should.
- 3.10** There may be situations where the necessary information to establish whether there is any potentially criminal activity cannot be secured or cannot be secured in a reasonable time or without disproportionate effort. These situations would also be considered at this formal decision making stage as it is important to consider whether there may be sufficient information to make a decision on how to progress anyway.
- 3.11** The decision of how to progress an issue is based on an assessment of whether there is a potential criminal activity by considering whether there are/is:
- identifiable events
 - identifiable participants
 - identifiable betting patterns and activity
 - identifiable links between them.
- 3.12** If there is no potential criminal activity the options are to go to the SGB, betting operator or take no further action. If there is potentially criminal activity the options are to progress this to a case conference, engage in further SBIU development or take no further action at this time
- 3.13** There are five decisions that could be made at this point:
- no further action – for example, this could be because there was an appropriate explanation for a suspicious pattern or insufficient information is available to proceed (in which case the information would be logged on our intelligence database)

- refer to SGB – this could be where there is potentially a breach of a sport's rule. The SGB would then decide how to proceed with it. Details of the Commission's approach to sharing information with partners can be found at section 3.35-3.39
- refer to betting operator/s – this could be where there is potentially a breach of a betting operator's terms and conditions or contracts of employment. The betting operator would then decide how to proceed with it. Details of the Commission's approach to sharing information with partners can be found at section 3.35-3.39
- progress to a case conference – this is where there is sufficient intelligence and evidence to progress the matter. There may be times where the significance of an issue might mean it is escalated to the case conference stage before all of the elements at 3.11 have been identified
- further SBIU development – to secure additional intelligence and evidence.

Case conference

3.14 The Statement of Principles for Licensing and Regulation (September 2009) sets out the principles which underpin the Commission's approach to investigations and prosecutions. The Commission's approach to betting integrity sits within this broad framework. As noted in paragraph 2.1 a SGB applying a sanction is likely to be a quicker and less costly deterrent than the Commission or police pursuing a criminal sanction. As such there is a presumption that only more serious cases would potentially be appropriate for a criminal sanction. Decisions on how to proceed from a case conference are based on what would be the most proportionate way to address an issue and will take into account:

- what would be the most effective and timely deterrent and sanction
- scope and scale of criminality
- harm to/ impact on victims, including the sport or betting customers
- scale of potential winnings
- evidential prospects
- available resources
- the need to collaborate with other law enforcement agencies or partners
- wider factors that may override these in certain circumstances.

3.15 To give an indication of how the criteria might be used:

- if the scope and scale of criminality is high (for example, a number of participants and betting parties are involved) and/ or there is a need for collaborations the Commission is likely to try to engage the police, most likely as the lead body. If the scope and criminality is high it is feasible that offences other than 'cheat' might be relevant
- if a swift and significant sanction could be applied by the SGB (which offers an effective deterrent to others) then that might be the most appropriate route
- if the scale of criminality is low or the scale of the potential winnings and harm/ impact on victims is low it is more likely that the Commission will pass this to SGBs or operators to take disruptive action rather than prosecute. One example might be where the outcome of the event has not been influenced; another might be where those betting fairly have not been disadvantaged
- a theoretical example of an overriding factor might be where it is 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
- a further example of an overriding factor might be where a precedent could be set and needs to be legally tested. The Commission is more likely to take such a case.

3.16 All of the factors above are taken into account when making a decision. There are no set limits for each or a sequential way in which they are considered. It is important to retain flexibility in what is progressed.

- 3.17** The potential outcomes from a case conference are:
- investigation (Commission or police led)
 - disruptive (including disciplinary) action by SGBs or betting operators
 - further development by the SBIU
 - no further action.
- 3.18** The decision on how to progress a case is taken by the Commission's enforcement team, escalated appropriately dependent on the scale of resources that may need to be committed to conclude a case.
- 3.19** '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. Even when an issue is potentially criminal, disruptive action might often be the most effective way of addressing it. 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. 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. It might also take the form of pre-game warnings if the SGB is aware of an issue before the game or of the betting operator withholding payment on a bet.
- 3.20** Further SBIU development to gather additional information necessary might be required to take a decision as to how to proceed. This particularly might be the case if an issue had been escalated in the absence of all the necessary information (for example because it was taking longer to gather or the issue warranted early escalation), perhaps just to gather the full range of information (as noted at 3.10 and 3.13).
- 3.21** 'No further action' might be an appropriate outcome where a SGB or betting operator has considered the issue and decided it is not appropriate or feasible for them to take disruptive action.

Effective use of resources

- 3.22** An underlying aim of this approach is to ensure that criminality activity ceases and that the partners involved use their resources in the most effective and efficient way possible to achieve an effective combination of prevention, deterrence, disruption and sanction.
- 3.23** The issue of available resources applies to all parties. For example, it is feasible that something that might most appropriately be led by the police cannot be because the relevant force does not have the available resources at that time. Similarly, the Commission's resources are finite; it regulates the whole of the gambling industry and has a budget of £13m (which is reducing in the current economic climate) which is based on the workloads created by the operators we regulate.

Investigation (Commission or police)

- 3.24** The Commission's broad policy framework in relation to the investigation and prosecution of offences under the Act, including the Commission's powers is set out in the Commission's document *Licensing, Compliance and Enforcement policy statement (September 2009)*³. Investigations in respect of betting integrity can be taken singularly by the police or Commission or the lead can be taken by one and supported by the other. This arrangement can change during the course of a case depending on developments.
- 3.25** The investigation process will seek to convert that intelligence into evidence and develop further lines of enquiry as required. The Commission will use the investigative resources available to it to establish whether the activity in question is consistent with cheating, for example our powers under RIPA or POCA. The Commission will generally work with relevant SGBs and betting operators during the investigation process.

- 3.26** The Commission may at times use expert witnesses to inform our understanding of a situation (or during a prosecution). The Commission will generally discuss with the relevant SGB (or potentially betting operator, depending on circumstances) who an appropriate expert witness might be. The Commission will not necessarily seek a definitive statement that an individual has cheated or not performed to the best of their abilities, but just a view on whether the performance is consistent with the allegation made.

Information to SGBs and operators during investigations

- 3.27** The Commission may, where appropriate, share information with SGBs and betting operators during investigations (more information on information sharing is available from paragraph 3.35). It may be feasible for a SGB to prepare or progress disciplinary cases under sports rules at the same time as a criminal investigation (as noted in *The British Horseracing Authority and Integrity in Horseracing Review* by Dame Elizabeth Neville⁶) and it may be appropriate for betting operators to take appropriate action in their own right. These should be the subject of joint discussions to ensure neither the criminal nor the disciplinary action could negatively impact on the other.

Voiding

- 3.28** The Commission has powers to void individual bets either as a disruptive end in itself or as a stage on the way to a prosecution. More detail about this power is set out in section 5.41 to 5.47 of *Licensing, Compliance and Enforcement policy statement (September 2009)*³.
- 3.29** The Commission would normally only contemplate suspending or voiding bets where our investigations have established a pattern of apparently corrupt behaviour. This is because, although the evidential test for the Commission to be 'satisfied that the bet was substantially unfair' is lower than the test for securing a criminal conviction for cheating, the evidential strands to substantiate a conclusion of that a bet is 'substantially unfair' are broadly the same. In such circumstances the Commission, and/ or others, may monitor those suspected so that it is able to move to impose interim moratoria or void bets more swiftly in the future on the basis of the accumulated evidence and a pattern of suspicious activity or repeated suspicious circumstances.

Prosecution

- 3.30** Following an investigation the Commission may proceed to prosecution, issue a caution or decide to take no further action. Information concerning the framework for deciding how to proceed following a criminal investigation is set out in section 6.8 to 6.111 of *Licensing, Compliance and Enforcement policy statement (September 2009)*³.
- 3.31** The Commission will apply the Code for Crown Prosecutors when deciding whether criminal proceedings should be commenced, which involves a two-stage test:
- first, the evidence will be reviewed and an assessment made about whether there is a realistic prospect of conviction
 - secondly, if there is sufficient evidence to mean that there is a realistic prospect of conviction, an assessment will be made about whether it is in the public interest for a prosecution to take place.

If either of those tests is not met no further action relating to a criminal prosecution would be taken although referral to the relevant SGB may be considered appropriate.

- 3.32** Whilst the Commission can take prosecutions itself, often such court cases will be led by the Crown Prosecution Service (CPS), particularly where a police force has been involved,

⁶ [The British Horseracing Authority and Integrity in Horseracing Review. May 2008](#)

so whether or not to prosecute will often be a decision for them in the first instance. If the CPS does not think it appropriate to prosecute, the Commission is unlikely to proceed independently unless there are exceptional circumstances (for example, the need to set a legal precedent).

- 3.33** Section 6.14 of *Licensing, Compliance and Enforcement policy statement (September 2009)*³ notes that in appropriate cases, where the Commission has investigated a matter and both the evidential and public interest tests are met, the Commission may decide to issue a caution to the alleged offender, rather than pursue a prosecution. Where a caution is administered, details of the caution will be kept on file and may be taken into account in the future if further offences occur.

SBIU dissemination

- 3.34** Following the outcome of a case, including where there is no further action, the SBIU may disseminate information to other parties. The information that can be shared will be dependent on the case and any legal restrictions which may apply. More information on this is set out in the section below. The SBIU would also welcome any relevant information from partners on the completion of any action taken by them regarding lessons learnt or emerging themes.

Sharing information with partners

- 3.35** The Commission will generally look to share information with partners where it is considered appropriate to do so and having made the decision will do so as soon as possible. Generally, and particularly for non-law enforcement partners, this will be in a summarised format. The Commission is usually more able to share data with law enforcement agencies for the purpose of criminal investigations. However, there are constraints as to the circumstances in which the Commission can share data.
- 3.36** Section 30⁷ and schedule 6⁸ (which names a number of SGBs) of the Act provide a limited list of third parties with whom the Commission may provide information received by it in the course of its duties. However the Commission may choose to provide information to parties not listed where this is considered appropriate in furtherance of the licensing objectives and is not prohibited by any statutory provision or legal principle. Where necessary information provided by the Commission to third parties may be subject to conditions, including the requirement to apply good information handling procedures. The Commission would not be able to pass data to those that do not have appropriate information handling procedures.
- 3.37** All disclosures of personal data made by the Commission will be subject to the requirements of the Human Rights Act 1998 and the Data Protection Act 1998. This includes the principles of data protection as well as the data protection non-disclosure provisions which provide for the disclosure of personal data to third parties in particular circumstances. We will only share data which the recipient is clearly lawfully entitled to access to in pursuance of their duties.
- 3.38** We will also be mindful of the source of our information, the powers under which we secured it and, in light of that, whether it is proportionate to disclose. For example, if we secure information under RIPA in the course of investigating a potentially criminal action that identifies a relatively minor sports rule infraction it may not be appropriate to share that information. It would not be good practice to routinely pass information secured under criminal powers to other bodies to take a civil sanction; this could call into question the use of our powers.

⁷ [Section 30, Gambling Act 2005](#)

⁸ [Schedule 6, Gambling Act 2005](#)

However, it also should be noted that we do receive a significant amount of useful information from other sources, such as licence condition 15.1 or through our hotline which, subject to the restrictions noted in paragraph 3.37, we are able to pass to partners with less constraints.

- 3.39** Principle 8 of data protection states that personal data shall not be provided outside of the European Economic Area (EEA) unless an adequate level of protection is applied. The Commission will be particularly vigilant when sharing personal data in these circumstances.

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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

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