

LICENSING PANEL REASONS
APPLICATION FOR LICENCE – GARY SANDERSON

1. On 8 September 2021, the Independent Licensing Committee of the British Horseracing Authority (BHA) sat to consider Mr Gary Sanderson's application for a licence to train, the BHA having referred the matter to the Panel under Rule (B)15.2:

....the BHA shall refer a Licence application to the Licensing Committee for determination if it... believes that it would be in the interests of racing, pending the outcome of an ongoing investigation or process, to refuse the Licence.

Pursuant to the Judicial Panel Code the hearing was in private and confidential.

2. The hearing was of necessity virtual. Mr Sanderson appeared in person and was anxious to proceed. His solicitor was on holiday, but he was content to proceed unrepresented. His application to have his landlady, Miss Coope, sit with him was granted. The case for the BHA was presented by Charlotte Davison and both Andrew Howell and Henry Bradley, who both had been engaged in correspondence, were available if necessary. The working bundle ran to 306 pages and after a preliminary discussion it was agreed to proceed with documentation that we had.

History:

3. Mr. Sanderson was granted a combined licence to train at Lilling Hall Farm on 5 May 2017. This expired on 31 August 2018. On that date a County Court Judgement granted against Mr Sanderson for unpaid veterinary work in 2016 was outstanding. After the debt was satisfied the licence was renewed on 10 September 2018 for a one-year period but with a condition:

'That you provide, on a six-monthly basis (namely 11 March 2018 and 10 September 2019), a balance sheet and relevant explanatory notes for your training business. Should the performance of the training business vary significantly to your projected plans, we may require separate comments regarding the reasons for this and possibly, revised financial projections for the business.'

4. On 5 September 2019 Mr Sanderson submitted his annual application to renew his licence. He had not complied with the 2018 financial condition. Mr Sanderson had notified the BHA of a summons and fourteen charges brought by the RSPCA on 1 July 2019. The allegations concerned five thoroughbred horses not in training but in his care and covered

a period from 6 March 2019 to 6 April 2019. In an effort to mitigate any immediate risk posed by Mr Sanderson a local Veterinary Officer instructed by the BHA visited Mr Sanderson's yard on 15 July 2019. In the Veterinary Officer's opinion, no welfare issues were observed at that time in relation to eight horses in training. The officer had no knowledge of the position earlier in the year or of any supporting evidence relied on by the RSPCA.

5. After consideration of the application as a whole, the licence was not renewed pending the outcome of live animal welfare charges brought by the RSPCA. Apparently, there was a court date on 8 October 2019 but this was vacated and the matter deferred until April 2020. Mr Sanderson informed the BHA that he was instructing a solicitor (Clive Rees & Associates) and had contacted the NTF. The prevalence of the pandemic forced an adjournment to 10 August 2020 but this date too was pushed back to 'the end of 2020/beginning 2021'.
6. On 5 October 2020 the BHA wrote confirming that in view of the animal welfare allegations the application would be referred to the Licencing Committee and requested details of the financial position of the business and operating details. Meanwhile, numerous documents and observations were forwarded to the BHA resulting in the BHA on 31 December 2020 requesting an up-to-date balance sheet, a current bank statement, and confirmation that the financial projections were relevant and reflective of the opening balance. Also requested was clarification of details regarding a proposed owner – a Mr Morton.
7. By mid-January 2021, those bank statements that had been received denoted a closing balance of £940. A letter of intention sent from the BHA on 3 February 2021 confirmed the view expressed in their letter of 5 October 2020 setting out the reasons for the refusal to renew the licence and the fact of referral of his case to the Licencing Committee. Mr Sanderson sent an email with various comments on his horses and accompanied by photographs as well as a picture of Galileo at Coolmore on 12 February 2021. Also forwarded were notes, e-mails, testimonials and a signed witness statement of support.
8. Mr Sanderson sent a further e-mail on 1 March 2021 enclosing among other things the photo of Gordon Elliott and complaining of the financial and mental pressure he had had to endure 'as a result of a cover up regarding a young vet who had diagnosed a brood mare in foal wrongly which led to her being euthanised'; and that he and his family 'had taken the backlash from the shambolic episode with the RSPCA'.

9. In May 2021 a joint veterinary report regarding the RSPCA's case against Mr Sanderson was prepared by Dr Forsyth on behalf of Mr Sanderson and Dr Green on behalf of the RSPCA setting out points of agreement and disagreement. On 23 July 2021 Mr Sanderson sent a three-page email explaining that he had reason to withhold some veterinary payments and pointing to alleged unprofessional conduct and unsatisfactory work. He underlined that he had worked tirelessly to extend his yard and facilities while surviving without any income from training.

BHA Position:

10. Two matters in particular concerned the BHA. First the trial of the welfare issues of apparent seriousness, had been delayed for various unfortunate but understandable reasons. The BHA has not been provided with details of the RSPCA's case or Mr Sanderson's response. Mr Sanderson's legal representative has stated, '*[a]ny further information [than that in the public domain] such as case papers, witness and expert reports we are not at liberty [to] disclose to third parties this is to maintain the integrity of Mr Sanderson's case*'. The BHA had therefore been restricted from undertaking its own assessment of the risk posed by the allegations and has opted to await the result of the criminal hearing. While acknowledging that he was to be presumed innocent until proved guilty the BHA considered the charges brought by the RSPCA against Mr Sanderson to be serious and entirely relevant to his application, and if proved would be in direct conflict with the standards expected from a licensed person. It was in the interests of racing to refuse the application pending the result of the external examination.
11. Additionally, Mr Sanderson had been slow to provide the requested documentation and had still to provide clear bank statements to enable the BHA properly to assess if he could satisfy the financial soundness and working capital requirements. His failure to comply with the 2018 condition added to the suspicion that he was incapable of managing his financial affairs sufficiently competently, and that his financial soundness failed to meet the required standard.
12. Further statements from local veterinarians were obtained indicating that professional bills remained unpaid, that on occasions he had been aggressive to staff and that no further services would be provided.

The Hearing:

13. Ms Davison set out the two strands of the BHA objection. The fact that welfare charges existed relating to a time when he held a licence had to be relevant to a renewed application and it was regrettable both that the hearing had been frequently postponed and that the BHA had not been provided with any information from any source to enable them to come to any fact-based and balanced view. Although consideration had been given to imposing conditions, the practicalities at the present time made this option unworkable, and the risk at this time with matters unresolved remained too great. Second, there were grave concerns regarding Mr Sanderson's business approach. He still had not provided evidence of financial stability and of the required reserves, and further evidence had emerged of unsatisfactory relationships with various local veterinary practices. Although he had produced many testimonials as to his skill and work with horses these did not make up for other deficiencies.
14. Mr Sanderson felt he had some difficulty in articulating some of his points which was understandable, and full latitude was given. He had been informed that the RSPCA trial was fixed for a number of days in March 2022 and that he intended to plead not guilty. He said that he and his wife had worked hard over the years to upgrade the Farm and its facilities but income from other equine activities was poor at present. The property ran to 24 acres and they had recently added a campsite facility. He had had to deal with serious health issues within his family. He was staggered by the arrival of the RSPCA and shocked to receive a bundle of 100 pages concerning the allegations. Addressing these matters occupied much of his efforts and the requests of the BHA were left in the background. Although he had not had much success from his horses in training, things had been improving. He just wanted a licence back so that he could resume where he had had to leave off. The complaints from the veterinary practices should be put to one side as they had not provided a satisfactory service. He had always wanted to run a small-scale business and cited Jim Bolger as a shining example of starting on his own.
15. It was agreed that Ms Davison could ask him a limited number of questions. He maintained that he would have access to funds in excess of £40k through his wife and the recent sale of a property and evidence could be available. Regarding the vets, either the debts were not in fact his, or the practitioner's advice on foaling was no help and he was not up to his job. Mr Sanderson pays his present vet monthly.

16. Miss Coope told us that she had inherited an estate and the Sandersons had become her tenants in Lilling Hall Farm. It was clear to her that they had worked hard to improve it as well as having to cope with family tragedies; and Mrs Sanderson had given him her unstinting support. He had a love of racing and to some extent had forgotten about dealing with the finances. Mr Sanderson also lacked the ability to give the full picture verbally and she was happy to assist.
17. Also called was Mr Neil Woods who gave his evidence over a mobile phone. He had dealt satisfactorily with Mr Sanderson for many years and had encountered no problems in the way that Mr Sanderson ran the operation. He would continue to be supportive.
18. The many testimonials of various sizes and variable detail were also before the Committee. The recognition of his equine understanding and hard work was clear. It was accepted that these were predominantly collected for the purposes of countering the welfare allegations rather than for the renewal of the licence.

Conclusion:

19. It is clear that in granting a licence, the BHA must be satisfied that such a decision will not be prejudicial to the reputation of, or public confidence in, horseracing in this country. Those involved in racing are entitled to rely on the fact that the trainers they interact with are properly licensed, and meet the high standards set by the BHA. Equally, other Licensed Trainers are entitled to be satisfied that only duly qualified and suitable individuals are granted licences to train, and that their licensed counterparts are carrying out, to the same expected standard, the obligations imposed on licence-holders.
20. Relevant considerations in considering the applicant's general suitability are to be found in 'Applications for a Licence to Train - The Guidance Notes' and include:
 - i. The applicant's honesty and integrity – such as whether the applicant is the subject of any proceedings of a criminal nature or charged in connection with any alleged criminal offence (paragraph 32.2 of the Guidance Notes);
 - ii. Whether the applicant has been the subject of any adverse finding by a judge in any civil proceedings, or has settled civil proceedings brought against him/her relating to any matter which could reasonably be said to materially affect his/her suitability to hold a licence (para 32.3 of the Guidance Notes);
 - iii. Financial soundness – such as whether the training business is likely to be financially sound, taking into account all relevant matters, including the

information that the applicant is required to furnish in support of his application which includes working capital or overdraft facilities of not less than £40,000 or such other amount as may be requested on behalf of the BHA having regard to the circumstances (para 39.5.1 of the Guidance Notes).

- iv. Whether the applicant has been the subject of any judgement debt or award in Great Britain which remains unpaid or was not satisfied within a reasonable period (para 39.1 of the Guidance Notes); and
- v. Whether the training business is solvent and able to pay debts as they fall due (para 39.4 of the Guidance Notes).

21. The Committee accepted that Mr Sanderson has devoted his life to horses and that he had worked hard to improve the quality of his facilities; and the Committee also recognises the difficulties faced by the small operator. The all-round standards required, however, are high and having considered the evidence there are concerns in several areas. It is no fault of Mr Sanderson that the RSPCA allegations are taking so long to come to court but until that area of welfare can be clarified, a barrier remains. Second, evidence of financial soundness is wanting. This was first asked for in September 2018 and repeated in 2019 and 2020. Acceptable accounts and analysis must be provided, as well as evidence of sufficient available funds to back up the business, in order to support any future applications. Third, the Committee is troubled by apparent unpaid debts and poor relations with several local veterinary practices.

22. The Committee was pleased to hear of the variety of equine services being offered and the successful development of new areas, but it is important to maintain public confidence in the standards that are required and regrettably as things stand it is not in the interests of racing to grant the application.

His Hon. Brian Barker CBE, QC
Chole Fairley
Ian Stark OBE
14 September 2021