

Solutions – Scenario

The BHA receive a complaint from a trainer regarding an owner. The owner has sent an email to the trainer late at night which concerns what the owner considers to be the underperformance of their horse. The email goes beyond complaints concerning the performance of the horse and contains personal abuse of the trainer. The relevant email is provided to the BHA. The email is a 'one-off'.

The owner is contacted by the BHA and asked to provide an account of their position. The owner accepts they sent the email and that it was sent in anger after a disappointing performance. The BHA advise that a breach of both Point 1 and Point 4 of the Code of Conduct has occurred. It is the first time the owner has breached the Rules of Racing. The owner is offered the option of dealing with the matter by way of a Solutions based approach.

The owner accepts a breach of the Code and that the content of the email was unacceptable. The owner apologises (via the BHA) to the trainer for the personal abuse contained in the email. It is agreed between the BHA and the owner that a payment to charity of £100 is appropriate. The trainer is asked to nominate an appropriate racing charity. The owner makes a payment of £100 to Retraining of Racehorses. A warning letter is issued to the owner and the matter is closed.

Fast-Track

Resolution of a breach of the Code by way of the Fast-Track process also depends upon the wrongdoer admitting the breach and accepting a proposed penalty. It is very important to be aware that resolution by the Fast-Track process cannot be completed between only the BHA and the wrongdoer. Whatever is agreed as appropriate between the BHA and the wrongdoer must then be put to the Chairperson of the independent Disciplinary Panel. It is open to the Chairperson to accept or reject the proposal.

The breach of the Code must be relatively minor for Fast-Track to be available as a form of potential resolution. It is likely only to be available for:

Low-level breaches of the Code where a solution-based approach is unachievable;

First-time medium level breaches of the Code;

The process involves the BHA and the wrongdoer agreeing the appropriate form of resolution of a breach of the Code of Conduct and avoids the need for a Hearing in front of a Disciplinary Panel. The suggested resolution is then provided to the Chairperson of the Independent Disciplinary Panel alongside the relevant evidence to allow the Chairperson to consider the matter. The Chairperson may approve or reject the proposal. A proposal may be rejected if, for example, the Chairperson considers the sanction is too lenient or too severe. It may also be rejected if the Chairperson considers that Fast-Track is simply not appropriate in the circumstances of the case.

An important difference between the Solutions based approach and Fast-Track is that Fast-Track outcomes will be published on the website of the Independent Disciplinary Panel.

Fast-Track Scenario

A member of the public makes a report to the BHA that states the person witnessed one jockey berating a fellow jockey, including using foul language and personal abuse, as the pair were making their way to the weighing room following a race. The incident was not reported to the Raceday Stewards. A BHA investigation commences. Both jockeys involved play down the

incident. However, 2 further members of the public make statements which indicate that an unacceptable incident occurred which included foul language and personal abuse. The investigation finds no evidence that the wrongdoer had engaged in similar conduct before or since the incident.

The BHA charge the wrongdoer. The BHA advise that the incident is too serious to be dealt with by way of the Solutions based approach. The BHA position is that resolution by Fast-Track is possible if the jockey issues a public apology, acknowledges the wrongdoing and accepts a fine of £500. Otherwise, the matter will be referred to the Disciplinary Panel for full Hearing. Having considered the evidence in the case the jockey accepts this approach.

The proposed resolution is put before the Chairperson of the Disciplinary Panel and approved following consideration. The apology and acknowledgment are made. The decision is published, the fine is paid and the matter is closed.

Disciplinary Panel Scenario

A registered stable employee makes a report to the BHA stating that they have been verbally abused routinely by their employer (a Licensed Trainer). The stable employee states that they have decided to report the incident as the most recent confrontation almost became physical. A BHA investigation commences.

The trainer denies anything inappropriate has ever occurred between the trainer and the employee. One individual spoken to makes a statement indicating that this person witnessed the trainer verbally abusing the relevant employee.

The BHA charge the trainer with breach of Point 2 of the Code. The BHA case is that bullying and harassment has occurred and that this is aggravated as the trainer has abused a position of power and responsibility. The BHA argue that this is a high-level breach of Point 2 of the Code and the appropriate sanction involves a period of suspension.

A Hearing is set to allow a 3-person Disciplinary Panel consider all the evidence in the matter and decide if there has been a breach of Point 2 of the Code and, if so, what the appropriate penalty is. The trainer is legally represented at this Hearing.

Disciplinary Panel Scenario

The BHA receive a report from a family member of a 19 year old stable employee stating that the stable employee has been sexually assaulted at their place of work. A BHA investigation commences. The report is confirmed by the 19 year old when contacted by the BHA. The report is denied by the accused person.

The matter has also been reported to the police and is the subject of a police investigation. The allegation is one of serious sexual assault. In order to ensure the safety of Young People and Adults at Risk working in the sport, while also recognising the rights of the accused, the BHA file an application for the immediate provisional suspension of the accused person from working at any racing stable at which a Young Person/Adult at Risk works and from working at the same stables as the complainant. The application for suspension is made to the Chairperson of the Disciplinary Panel and is granted. The accused is allowed work on any racing stable on which no Young Person/Adult at Risk works provided the BHA confirms that the stable is appropriate in advance. Appropriate safeguards are required to be in place, including that the accused must be supervised at all times on the yard, to ensure the safety of all working in the sport. The accused does not appeal the terms of this suspension though they are entitled to do so.

At the conclusion of the police investigation the BHA are advised that the accused will not be charged in the criminal courts as the Crown Prosecution Service consider that there is not a reasonable prospect of the case being proven beyond a reasonable doubt. The BHA consider all the evidence in the case and conclude that there is a reasonable prospect of a charge for breach of Point 3 of the Code (prohibition of sexual misconduct) being proven on the balance of probabilities which is the standard of proof applied in BHA disciplinary proceedings. The Chairperson of the Disciplinary Panel grants an extension to the suspension in place on the proviso that the BHA must expedite the hearing of the case.

The BHA charge the accused with breach of Point 3 of the Code. The BHA case is that a serious sexual assault has been committed. The BHA argue that this is a high-level breach of Point 3 of the Code and the appropriate sanction involves the Disciplinary Panel going beyond the Penalty Guidance and imposing an indefinite disqualification from the sport on the accused.

A Hearing is set to allow a 3-person Disciplinary Panel consider all the evidence in the matter and decide if there has been a breach of Point 3 of the Code and, if so, what the appropriate penalty is. The accused is legally represented at this Hearing.