



## **BHA SAFEGUARDING REGULATIONS**

### **1. AIMS OF THE BHA SAFEGUARDING REGULATIONS**

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

### **2. JURISDICTION**

- 2.1 These BHA Safeguarding Regulations apply to all Persons.

### **3. DEFINITIONS**

- 3.1 **Adult at Risk** means any person engaged in racing activities and/or any person employed, cared, advised, mentored, supervised or coached by a Person in the context of racing under the jurisdiction of the BHA aged 18 years or over who is, or may be, unable to take care of themselves or who is unable to protect themselves against significant harm or exploitation by reason of a mental health problem, a disability, a sensory impairment or some other form of illness or disease (or more than one of them);
- 3.2 **BHA** means the British Horseracing Authority Limited;
- 3.3 **BHA Panel** means an independent Disciplinary Panel convened under the Rules of Racing;
- 3.4 **Disciplinary and Licensing Panel Pool** means the pool of individuals from which BHA Panels are selected;
- 3.5 **Judicial Panel Chair** means the independent head of the BHA's judicial system who oversees and is responsible for the Disciplinary and Licensing Panel Pool;
- 3.6 **NSP** means the National Safeguarding Panel operated by Sport Resolutions (UK) (a trading name of The Sports Dispute Resolution Panel Ltd - Company No. 3351039);
- 3.7 **NSP Rules** means the Procedural Rules of the NSP;
- 3.8 **NSP Tribunal** means an Arbitral Tribunal and/or an Appeal Tribunal (as specified or as



the context so requires) appointed pursuant to the NSP Rules;

- 3.9 **Person** has the meaning given to it in the Rules of Racing, save that for the purposes of these BHA Safeguarding Regulations it shall include individuals only (not corporate bodies), and shall include any individual who has agreed to be bound by these BHA Safeguarding Regulations through conduct or otherwise;
- 3.10 **Provisional Suspension** means a temporary bar from participating in racing and/or related activity sanctioned either directly or indirectly by the BHA, as set out more specifically in paragraph 7; and
- 3.11 **Young Person** means any person engaged in racing activities and/or any person employed, cared, supervised or coached by a Person in the context of racing under the jurisdiction of the BHA under the age of 18 years.

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

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

*NOTE:*

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

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

#### **5. THE BHA'S POWERS OF INVESTIGATION**

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



- 5.2.1 investigate the matter itself; and/or
  - 5.2.2 appoint others, including an independent safeguarding expert (or experts), to assist the BHA in relation to its investigation or investigate the matter on the BHA's behalf.
- 5.3 In relation to any investigation commenced under these BHA Safeguarding Regulations, the BHA (or its appointee) may require any Person (and request any other persons) to:
- 5.3.1 provide any information, documents or records, in such form as the BHA may require, and which are held by the Person or within their power to obtain;
  - 5.3.2 answer questions at an interview (in such cases, the Person may request a reasonable delay to the interview in order to seek legal advice);
  - 5.3.3 undertake a risk assessment by a suitably qualified person appointed by the BHA in such form as the BHA, at its discretion, considers appropriate; and/or
  - 5.3.4 co-operate in any other manner that might be necessary or desirable for the purpose of the investigation.

## **6. SUPPORTING PROVISIONS**

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

### **NOTE:**

*The BHA wants to be presented with any information, from any source, where there is reason to consider that any Person has presented or presents a risk of harm to one or more Young Persons or Adults at Risk, so that appropriate action may be taken. In order for the BHA's work under these BHA Safeguarding Regulations to be effective, the co-operation of all Persons is necessary when requested by the BHA (or those acting on its behalf). The BHA may therefore view a failure to co-operate, or conduct designed at*



*preventing or dissuading others from reporting concerns or co-operating, as a serious disciplinary matter. The BHA will also view malicious reporting or acts of bad faith in relation to safeguarding matters seriously (e.g. where a false report is made to pursue a personal vendetta or false information is deliberately provided to an investigation).*

## **7. PROVISIONAL SUSPENSIONS**

- 7.1 At any point in time where the BHA has reasonable ground(s) to suspect that a Person has engaged in conduct (or, as the case may be, attempted or threatened/threatens to engage in conduct) of the kind detailed at paragraph 4, the BHA may in respect of such a Person:
- 7.1.1 apply to the Judicial Panel Chair for the imposition of a Provisional Suspension; or
  - 7.1.2 subject to paragraph 7.2, in urgent circumstances where (a) the Judicial Panel Chair is not available or able to determine an application made pursuant to paragraph 7.1.1 (or delegate such determination in accordance with paragraph 7.10), and (b) the immediate imposition of a Provisional Suspension is deemed necessary by the BHA, impose a Provisional Suspension directly on the Person.
- 7.2 The imposition of a Provisional Suspension pursuant to paragraph 7.1.2 shall coincide with (or otherwise be followed as soon as possible by) an application by the BHA to the Judicial Panel Chair to ratify such a Provisional Suspension at the earliest practicable opportunity.
- 7.3 A Provisional Suspension may prohibit a Person from all or any specific racing and/or related activities under the jurisdiction of the BHA, on such terms and conditions as might be reasonable and proportionate to the circumstances of the case.
- 7.4 A Provisional Suspension shall be imposed only in cases where, and to the extent that, it is reasonable and proportionate. Prior to seeking or imposing a Provisional Suspension, the BHA will consider the following matters:
- 7.4.1 whether any Young Person or Adult at Risk (or other person) is or may be at risk of harm;
  - 7.4.2 the prospect of any charge(s) made (or that might be made) pursuant to these BHA Safeguarding Regulations being upheld (i.e., the stronger the merits of the charge(s), the stronger the justification for a Provisional Suspension);
  - 7.4.3 the seriousness of the conduct alleged to have been committed by the Person/risk of harm posed or potentially posed by the Person (i.e., the more serious a case is, the stronger the justification for a Provisional Suspension);



- 7.4.4 whether a Provisional Suspension is necessary or desirable to allow the conduct of any investigation by the BHA, the police, or any other relevant authority to proceed unimpeded;
  - 7.4.5 the opinion of any safeguarding expert (should the BHA choose to seek such an opinion); and
  - 7.4.6 any other circumstances that might be relevant to the individual case.
- 7.5 Where the BHA makes an application to the Judicial Panel Chair in accordance with paragraph 7.1 or 7.2:
- 7.5.1 the relevant application, and any decision in respect of it, may be made with or without notice being given to the Person;
  - 7.5.2 the procedure for determining the application shall be determined by the Judicial Panel Chair, as appropriate to the circumstances of the application (which procedure shall include, save in exceptional circumstances, seeking representations from the Person);
  - 7.5.3 the Judicial Panel Chair may seek the opinion of an independent safeguarding expert in determining the application (the cost of which shall be borne by the BHA, subject to any later costs order of a BHA Panel or an NSP Tribunal);
  - 7.5.4 the test that the Judicial Panel Chair shall apply when determining the application is whether the Provisional Suspension sought or imposed by the BHA is reasonable and proportionate, giving consideration to the factors set out at paragraph 7.4 above:
    - 7.5.4.1 if the Judicial Panel Chair is satisfied that the Provisional Suspension sought or imposed is reasonable and proportionate, the Judicial Panel Chair shall (as the case may be) impose or ratify the Provisional Suspension; and
    - 7.5.4.2 if the Judicial Panel Chair is not satisfied that the Provisional Suspension sought or imposed is reasonable and proportionate, the Judicial Panel Chair may either (a) not impose or ratify a Provisional Suspension, or (b) impose a Provisional Suspension on such alternative terms and conditions as they consider are reasonable and proportionate in the circumstances.
- 7.6 Once a Provisional Suspension has been imposed, the BHA shall ensure that the Person upon whom the Provisional Suspension has been imposed is promptly notified of the following matters:
- 7.6.1 the reasons why the Provisional Suspension has been imposed, unless the BHA or the Judicial Panel Chair decides for good reason otherwise;



- 7.6.2 the scope of the Provisional Suspension, i.e., which racing and/or related activities the Person is temporarily suspended from participating in (up to and including all such activities);
  - 7.6.3 such other terms and conditions as have been imposed;
  - 7.6.4 the date upon which the Provisional Suspension shall take effect (which may be immediate); and
  - 7.6.5 if relevant, the fact that there is a pending application to the Judicial Panel Chair for ratification of the Provisional Suspension.
- 7.7 The BHA may apply to vary the scope, terms and/or conditions of a Provisional Suspension, for which purposes the provisions of the above paragraphs 7.1 to 7.6 shall apply *mutatis mutandis* (i.e., with changes deemed to have been made as required to reflect the different context).
- 7.8 A Person who is subject to a Provisional Suspension may, for good cause shown, request permission to apply to lift or vary the scope, terms and/or conditions of a Provisional Suspension from the Judicial Panel Chair. The procedure for determining any request and consequent application shall be determined by the Judicial Panel Chair, who may refer the matter to the NSP in respect of any case proceeding before the NSP. Any application shall only be successful if and insofar as the relevant Person demonstrates the Provisional Suspension imposed is no longer reasonable and proportionate to the circumstances of their case.
- 7.9 For the avoidance of doubt, (1) any steps taken by the BHA before the Judicial Panel Chair in relation to an application concerning a Provisional Suspension shall not serve to preclude the jurisdiction of the NSP (rather than a BHA Panel) to proceed to hear the merits of the charge(s), should the BHA elect to pursue the matter through the procedures under the NSP Rules pursuant to paragraph 9 below, and (2) Rule 6 of the NSP Rules (Conduct of applications relating to Provisional Suspensions) shall not apply to Provisional Suspension applications under these BHA Safeguarding Regulations save to the extent an NSP Tribunal may apply it to matters referred to the NSP pursuant to paragraph 7.8 above.
- 7.10 The Judicial Panel Chair may in respect of any current or future application made under this paragraph 7 delegate their relevant functions to a member of the Disciplinary and Licensing Panel Pool, in which case the above references in this paragraph 7 to the Judicial Panel Chair shall be read instead as references to the designated member of the Disciplinary and Licensing Panel Pool.

## **8. NOTICE OF CHARGE AND RESPONSE**

- 8.1 If, as the result of an investigation commenced under these BHA Safeguarding Regulations, the BHA concludes that the Person has a case to answer, the BHA shall send a written notice of charge to that Person:



- 8.1.1 confirming that a charge is being issued against the Person under these BHA Safeguarding Regulations and that the matter may be referred for determination by an independent panel;
  - 8.1.2 referring to (and attaching) any and all supporting evidence, information and/or documentation that the BHA wishes to rely on;
  - 8.1.3 setting out the risk management measure(s) that the BHA considers appropriate if the charge is admitted or upheld; and
  - 8.1.4 requiring the Person's written response to the charge within 14 days (or, where circumstances so warrant, such shorter or longer period as may be specified by the BHA).
- 8.2 A charged Person must:
- 8.2.1 admit the charge and accept the proposed risk management measure(s); or
  - 8.2.2 admit the charge but:
    - 8.2.2.1 not accept the risk management measure(s) proposed by the BHA; and
    - 8.2.2.2 provide a written response on the appropriate risk management measure(s) and refer to (and attach) any supporting evidence, information and/or documentation which the charged Person wishes to rely on, including a written witness statement from any fact or expert witness upon which the charged Person wishes to rely; or
  - 8.2.3 deny the charge (in whole or in part), and:
    - 8.2.3.1 provide a written response setting out why the charge should not be upheld; and
    - 8.2.3.2 refer to (and attach) any and all supporting evidence, information and/or documentation that the charged Person wishes to rely on, including a written witness statement from any fact or expert witness upon which the charged Person wishes to rely.
- 8.3 If a notice of charge is sent to a Person who was under the age of 18 years when relevant conduct is alleged to have occurred, the BHA may send a copy of the notice of charge to the charged Person's parent or carer.
- 8.4 Following receipt of the Person's response to a written notice of charge, or in the event no such response is received within the period requested pursuant to paragraph 8.1.4, the BHA may (in its absolute discretion) refer the matter for a hearing before either a BHA



Panel or an NSP Tribunal to determine appropriate orders and/or risk management measures (if any) in accordance with paragraph 9 of these BHA Safeguarding Regulations. For the avoidance of doubt, no Person may appeal or challenge any aspect of the BHA's decision as to whether to refer a matter to a BHA Panel or an NSP Tribunal (including whether such a referral is appropriate or as to which body a referral is made).

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

9.1 If, following a notice of charge and any response, the BHA refers a Person to either a BHA Panel or an NSP Tribunal under these BHA Safeguarding Regulations, the BHA shall prepare and send a written notice of referral in the name of the BHA to the Person, which shall contain at least the following information:

9.1.1 an outline of the process to be followed in relation to the referral; and

9.1.2 contact details for the BHA Panel or the NSP Tribunal (as appropriate).

9.2 The following matters arising under these BHA Safeguarding Regulations may be determined by the NSP and NSP Tribunals in accordance with the NSP Rules, as amended from time to time, which are deemed to be incorporated by reference to this paragraph:

9.2.1 any referral to the NSP by the BHA on the basis that a Person has engaged in conduct (or, as the case may be, attempted or threatened to engage in conduct) of the kind detailed at paragraph 4; and

9.2.2 any other matter that the BHA may reasonably refer to the NSP for determination in accordance with the NSP Rules.

9.3 The BHA may, as an alternative to a reference to the NSP under paragraph 9.2.1, refer a charge that a Person has engaged in conduct (or, as the case may be, attempted or threatened to engage in conduct) of the kind detailed at paragraph 4 to a BHA Panel for determination in accordance with relevant parts of the Judicial Panels Code (as set out in the Rules of Racing) as though the Person were charged with a breach of the Rules of Racing. The Chairperson of any BHA Panel in such cases may read in such changes to the Judicial Panels Code as might be required and may give such directions as they consider appropriate for the purpose of ensuring a fair and expeditious conduct of the proceedings, with particular regard for the sensitive nature of safeguarding proceedings and the possibility (if appropriate) of adopting one or more of the 'special measures' in respect of the evidence of children and adults at risk, as set out in the NSP Rules. Such 'special measures' may also be adopted in respect of the evidence of any witness who was a child or adult at risk at the time of any relevant incident, even if he/she is no longer a child or adult at risk when giving evidence.

9.4 In the case of any conflict between these BHA Safeguarding Regulations and the Judicial Panels Code, the former shall take precedence. Without limitation, the following provisions of the Judicial Panels Code shall not apply to any matter referred to a BHA





Panel under these BHA Safeguarding Regulations:

- 9.4.1 Paragraphs 23 and 24 (Hearings Conducted in the Presence of the Media). (Paragraph 14.5 of these BHA Safeguarding Regulations applies instead).
  - 9.4.2 Paragraphs 33 to 42 (Commencement of Proceedings and Charge Response Form). (Paragraph 8 of these BHA Safeguarding Regulations applies instead).
  - 9.4.3 Paragraphs 43 to 48 (Plea Agreement). (Paragraph 12 of these BHA Safeguarding Regulations applies instead).
  - 9.4.4 Paragraph 55 (Appeals). (Paragraph 10 of these BHA Regulations and the NSP Rules (as amended by Paragraph 10) apply instead).
  - 9.4.5 Part Four (Disciplinary Panels as an Appellate Body) and Part Six (Licensing Committee). (These Parts are not applicable).
- 9.5 In the case of any conflict between these BHA Safeguarding Regulations and the NSP Rules that is not specifically provided for by these BHA Safeguarding Regulations, the NSP Rules shall take precedence in relation to matters proceeding before the NSP. Otherwise, these BHA Safeguarding Regulations shall take precedence.

## **10. APPEALS**

- 10.1 First instance decisions of a BHA Panel or NSP Tribunal may be appealed to an NSP Tribunal (i.e., an NSP Appeal Tribunal) in accordance with the NSP Rules, save as amended by this Paragraph 10 (for the purposes of the NSP Rules, a first instance decision of a BHA Panel shall be treated as if it were a decision of a first instance NSP Tribunal).
- 10.2 The grounds of appeal available to each of the Person and the BHA shall be that:
- 10.2.1 the reasons given by the BHA Panel or NSP Tribunal are insufficient to support the decision reached;
  - 10.2.2 there was insufficient material on which the BHA Panel or NSP Tribunal could have made the decision in question;
  - 10.2.3 the BHA Panel or NSP Tribunal failed to hold a fair hearing;
  - 10.2.4 the BHA Panel or NSP Tribunal misconstrued, failed to apply or wrongly applied these BHA Safeguarding Regulations (or any other relevant rules or regulations);
  - 10.2.5 the order or risk management measure is so disproportionate that no reasonable BHA Panel or NSP Tribunal could have decided upon it; and/or
  - 10.2.6 there is evidence available for the appeal which, had it been available at first instance, would have caused the BHA Panel or NSP Tribunal to reach a



materially different decision.

10.3 Save where an NSP Tribunal orders otherwise as a consequence of exceptional circumstances, an appeal shall not be de novo and shall instead be by way of review of materials considered at first instance and any such additional evidence, except that:

10.3.1 oral submissions will be permitted; and

10.3.2 oral evidence will only be permitted if permission to introduce new evidence has been granted.

## **11. ORDERS AND RISK MANAGEMENT MEASURES**

11.1 BHA Panels and NSP Tribunals may impose such orders and/or risk management measures as they see fit. However, the BHA envisages that the following range of orders and risk management measures are appropriate where, on the balance of probabilities, BHA Panel or an NSP Tribunal concludes that a Person has engaged in conduct (or, as the case may be, attempted or threatened to engage in conduct) of the kind detailed at paragraph 4:

11.1.1 guidance as to future conduct;

11.1.2 an order requiring the Person to undertake specified training/education;

11.1.3 a reprimand;

11.1.4 a warning as to future conduct;

11.1.5 an order requiring the Person to be monitored in specific matters and/or for a specified period of time (up to and including indefinitely) by a specified person or entity (which monitoring may be ordered to be at the Person's cost);

11.1.6 the suspension of, withdrawal of, or the imposition of conditions on, any licences, permits and/or registrations held by the Person, either temporarily or permanently;

11.1.7 a period of suspension or disqualification for a specific period of time (up to and including indefinitely) from involvement in any racing and/or related activities under the jurisdiction of the BHA on such terms and conditions as considered appropriate; and/or

11.1.8 an order excluding the Person from any premises licensed by the BHA for a specific period of time (up to and including indefinitely).

11.2 The BHA may publish and/or share details of orders and risk management measures on a 'need to know' basis, in such form and manner, and to such extent, as it deems necessary for the purposes of enforcement and/or compliance. The BHA may also take such administrative steps as it deems necessary or appropriate in order to give effect to orders and/or risk management measures imposed by BHA Panels and NSP



Tribunals (i.e., such orders and/or risk management measures will not require any further act of ratification by any other body).

## **12. CONCLUSION OF CASES OTHER THAN BY DETERMINATION BY A BHA PANEL OR NSP TRIBUNAL**

- 12.1 If, at any stage prior to a referral under paragraph 9, the BHA concludes that (a) there is insufficient evidence to charge/proceed with a charge, and/or (b) a referral would not further the aims of these BHA Safeguarding Regulations, and/or (c) there is any other bona fide reason for the BHA not to refer the matter, then the BHA may take such other action as it considers appropriate in all the circumstances of the case. For example, without limitation, the BHA may inform a Person that they have no case to answer under these BHA Safeguarding Regulations, provide a Person with guidance as to their future conduct, or refer the matter to another body (where the BHA is satisfied that other body will deal with the matter effectively).
- 12.2 Notwithstanding any of the other provisions of these BHA Safeguarding Regulations, at any time prior to the commencement of deliberations by a first instance BHA Panel or an NSP Tribunal in respect of a notice of charge issued, it will be open to a Person under investigation or charged under these BHA Safeguarding Regulations to admit the charge(s), in exchange for an agreement with the BHA on the appropriate risk management measure(s) to be imposed upon him/her in order to avoid the need for a determination by a BHA Panel or an NSP Tribunal.
- 12.3 Any such discussions between the BHA and the relevant Person will take place on a “without prejudice” basis and in such manner that they will not delay or in any other way interfere with an investigation or any proceedings.
- 12.4 Any resulting agreement will be evidenced in writing between the BHA and the relevant Person (in a form as directed by the BHA) and set out the risk management measure(s) imposed on the relevant Person.
- 12.5 In reaching an agreement under paragraph 12 of these BHA Safeguarding Regulations, the BHA will have due regard to the range of orders and risk management measures set out at paragraph 11 of these BHA Safeguarding Regulations, but it may agree any measure(s) appropriate to the case at hand.
- 12.6 If an agreement is reached, determination by a BHA Panel or an NSP Tribunal will not be required.
- 12.7 A Person who agrees to resolve proceedings in accordance with this paragraph 12 of these BHA Safeguarding Regulations will waive their right to appeal against or otherwise challenge any aspect of the agreed outcome.

## **13. EXCEPTIONAL MATERIAL**

- 13.1 In considering any Provisional Suspension application, or any charge, appeal or other matter brought pursuant to these BHA Safeguarding Regulations, the relevant decision-makers may not in the ordinary course of events consider any evidence provided by either the BHA or the relevant Person that the other party has not seen and had a



reasonable opportunity to respond to. Exceptionally however, the BHA or the relevant Person may make an application for permission to submit evidence that has not been sent to the other party where the BHA or the relevant Person considers that such evidence should not be sent to the other party because revealing it (or the identity of, or anything which might reveal the identity of, any individual within such evidence) to the other party may create (1) a risk of harm to any person, and/or (2) be unlawful, and/or (3) prejudice an ongoing investigation (by the BHA, the police, or any other relevant authority). Applications under this paragraph 13 should be lodged with the Judicial Panel Chair or (following a referral to the NSP) the NSP President as soon as possible.

- 13.2 Where either the BHA or the relevant Person makes an application for permission to submit exceptional material to any relevant decision-maker, the applicant party shall provide reasonable advance notice to the other party, unless the applicant party considers that such written notice itself would create a risk of harm to any person or and/or be unlawful. Any reply from the other party must be provided alongside any application.
- 13.3 The Judicial Panel Chair or NSP President will appoint an appropriate person from the Disciplinary and Licensing Panel Pool or the NSP to determine any application brought under paragraph 13.1, and the appointed person shall otherwise have no involvement in the proceedings. The appointed person will issue such directions as they consider appropriate to determine the application, and they may allow or reject the application in whole or in part. In making their decision, the appointed person may seek the opinion of an independent expert.
- 13.4 If the appointed person allows the evidence to be submitted to the relevant decision-maker but withheld from the other party, the appointed person shall consider whether a redacted version of the evidence and/or a summary of the evidence should be provided to the other party as an alternative.

#### **14. MISCELLANEOUS**

- 14.1 These BHA Safeguarding Regulations are to be interpreted and applied by reference to their core aim of ensuring the safety and welfare of Young Persons and Adults at Risk. Such interpretation and application shall take precedence over any strict legal or technical interpretations that may otherwise be proposed. The BHA's Safeguarding Policy and any related documents that may be published by the BHA from time to time may be referred to as interpretative aids.
- 14.2 In the event that any incident or other matter occurs that is not provided for in these BHA Safeguarding Regulations (whether it relates to conduct, jurisdiction, investigation, procedure, sanction or otherwise), then the BHA, Judicial Panel Chair, BHA Panel Chairperson (following a referral to a BHA Panel), or (following a referral to the NSP) the NSP President or any appointed NSP Tribunal may take such action as considered appropriate in the circumstances, taking into account the specific circumstances of the individual case and the principles of natural justice and fairness.



- 14.3 Minor practical or technical points will not serve to invalidate the procedure or any decisions or findings made under these BHA Safeguarding Regulations, so long as the principles of natural justice and fairness are not infringed.
- 14.4 In the event that any matter or conduct falling under these BHA Safeguarding Regulations also falls under the Rules of Racing or any other relevant BHA rules, regulations or procedures (as may from time to time be in force), or is subject to investigation by the police or other public authority (or analogous body, such as another sports governing body), or is subject to any other legal/regulatory/disciplinary process, then the BHA, Judicial Panel Chair, BHA Panel Chairperson (following a referral to a BHA Panel), or (following a referral to the NSP) the NSP President or any appointed NSP Tribunal, may at any point temporarily suspend the procedure under these BHA Safeguarding Regulations. For the avoidance of doubt, in the event that any matter or conduct falling under these BHA Safeguarding Regulations also falls under the Rules of Racing or any other relevant BHA rules or regulations, the BHA expressly reserves its right to bring proceedings under those other rules or regulations (regardless of whether proceedings are also brought under these BHA Safeguarding Regulations).
- 14.5 Save to the extent that disclosure and/or publication is provided for in these BHA Safeguarding Regulations, or is otherwise in accordance with the law, all matters considered under these BHA Safeguarding Regulations, will, so far as practicable, be regarded as confidential.
- 14.6 These BHA Safeguarding Regulations are governed by English law.
- 14.7 If any part of these BHA Safeguarding Regulations (including the NSP Rules) is ruled to be invalid, unenforceable or illegal for any reason, that part will be deemed deleted, and the rest of these BHA Safeguarding Regulations will remain in full force and effect.
- 14.8 Neither the BHA, nor any person employed by or appointed to assist the BHA, will be liable to any party for any act or omission unless it is actuated by malice or bad faith.
- 14.9 These BHA Safeguarding Regulations have an effective date of 1<sup>st</sup> January 2019. The substantive provisions of these BHA Safeguarding Regulations shall not apply retrospectively to matters arising before that date (but, for the avoidance of doubt, a Person may be considered to pose a risk of harm as a consequence of conduct that took place prior to the effective date).
- 14.10 These BHA Safeguarding Regulations were first amended on **24<sup>th</sup> February 2022** with such amendments coming into effect on that date, save that proceedings pending as at that date shall continue to be governed by the BHA Safeguarding Regulations as in force at the time the proceedings were brought (unless the parties to the proceedings agree otherwise).
- 14.11 The BHA may further amend these BHA Safeguarding Regulations from time to time. Such amendments will come into effect on the date specified by the BHA.

