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Sporting integrity analysis: Daniel Alfreds, Associate at specialist sports law firm Couchmans LLP, explains the threats to sporting integrity posed from match-fixing and betting related corruption.

What are the key threats to sporting integrity today?

Threats to 'sporting integrity' include the following issues:

- doping – the use of banned substances under a sports governing body (“**SGB**”) or World Anti Doping Authority code;
- match-fixing and betting related corruption – the provision of information or a contrived performance in exchange for a sporting or financial benefit;
- governance – transparency and accountability on decisions that may affect a sport and its participants;
- security – ensuring that spectators and participants are kept safe during events; and
- child protection – special measures to protect younger participants in sports.

These are all serious problems that have severe consequences for sport and could be discussed at length. This Q&A will focus on match-fixing and betting related corruption due to its pervasive nature within sport and the attention that it receives in the media when an issue arises.

What is match-fixing and betting related corruption and why has it become such a big threat?

Sport is loved at least partly due to its unpredictable nature and pure elements of competition. The idea that participants would intentionally lose a point, match or tournament for financial or personal gain goes against the vast majority of peoples' moral compass. Whilst match-fixing and betting related corruption are not new, over the last decade the threat to sports from these problems has increased significantly. There are several factors behind this:

- both legal and illegal sports betting has grown worldwide and, according to some estimates, is now a \$1 trillion industry;
- in-play betting on single elements within games has led the growth in sports betting. In theory these individual elements are easier to manipulate, especially if it doesn't affect the overall result;
- the globalisation of sports betting means that betting markets are truly global whilst regulation and international law have been unable to keep up;
- the availability of online and mobile betting increases opportunities for criminals and makes them harder to trace; and
- there is evidence to suggest that international organised crime networks are beginning to see sport as a 'soft-target' compared to higher risk activities such as drug trafficking or money laundering.

Whilst sports that are traditionally associated with betting such as horse racing and football continue to have large amounts of money placed on them, online markets have become available on a huge variety of other sports from cross country skiing to badminton and surfing. The side effect of this is that all sports are at risk of being victims of match-fixing and betting related corruption.

What steps can be taken towards safeguarding healthy competition?

Protecting a sport from match-fixing and betting related corruption is not a 'one size fits all' measure. Each individual SGB will have different factors affecting it that may not be applicable for another. These include issues such as whether it is an individual or team sport, the length of a player's career, the money applicable to the sport or the culture in the territory in which it's played.

There are however several issues that an SGB can confront to safeguard healthy competition that include:

1. Drafting and implementing effective rules or policies to deal directly with match-fixing and betting related corruption.

Whilst these do not necessarily need to be long or complex, experience of drafting these policies shows that they need to fulfil a number of functions by covering a wide range of offences, facilitating effective investigations and allowing appropriate sanctions.

2. Education for players at all levels.

This has been an effective tool in warning players of the potential dangers of match-fixing and betting related corruption through carefully tailored programmes. All players should be required to participate and the message should be reinforced at least on a yearly basis whether through attendance on courses or through on-line modules. Participants should then be tested on what they have learned to both make sure that the information has been understood and to highlight a result that may indicate a player being vulnerable to match-fixing and betting related corruption.

3. Bet monitoring.

In recent years SGB's have started to use the services of bet monitoring companies or set up their own internal monitoring systems to watch worldwide betting markets for real-time alerts of unusual or suspicious betting activity. This can then be used by SGBs both as part of an investigatory process or to potentially stop a match they reasonably believe is going to be subject to match-fixing and betting related corruption. In addition, some SGBs have signed 'memorandums of understanding' ("**MoUs**") with betting companies under which the SGB may, amongst other things, request betting activity and personal ID information held by the betting operator. Generally the betting operator will only provide the information if the SGB has a reasonable suspicion that an individual has breached the SGB's rules or there is a threat to the integrity of the event.

What are the important legislative measures taken to protect sports from match-fixing and betting related corruption?

In the UK, though not specifically designed for match-fixing and betting related corruption, Section 42 of the Gambling Act 2005 (the "**Gambling Act**") creates the criminal offence of cheating at gambling if a person:

- cheats at gambling; or
- does anything for the purpose of enabling or assisting another person to cheat at gambling.

Anybody convicted of cheating at gambling under Section 42 can face a maximum sentence of two years in prison.

In addition to the Gambling Act the Bribery Act 2010 (the "**Bribery Act**") broadly provides for two more offences of:

- offering, promising or giving a financial or other advantage; and/or
- requesting, agreeing or accepting an advantage.

These will be committed if:

- the offering, promising, giving, requesting, agreeing or accepting falls within a 'relevant function or activity' which includes those of a public nature, connected with business or in the course of a person's employment; and
- that the person performing the relevant function or activity was expected to perform this in good faith, with impartiality or in a position of trust.

A conviction under the Bribery Act can lead to a prison term of up to ten years.

Whilst the Bribery Act was not specifically intended to cover sport, by including 'in the course of a person's employment' an employee of a sports club, SGB or event organiser may fall within it. The Bribery Act is particularly far reaching as it applies to the actions of anybody with 'a close connection to the UK' (which includes British Citizens or companies incorporated under UK law) even if those actions are performed outside of the UK.

As there is no direct criminal offence of match-fixing there have been calls to address this by many in sport including the Sport and Recreation Alliance who represent more than 300 SGBs in the UK.

Outside of the UK some countries have already implemented legislation on this issue. Spanish public law prohibits sportspersons, coaches and other "direct participants" in a sporting event from placing bets or wagers on that event. Another more recent example comes from New Zealand which, in December 2014, passed the Crimes (Match-Fixing) Amendment Bill which clarifies that match-fixing is a form of deception in accordance with their Crimes Act 1961.

Have these measures been successful?

It is difficult to define success in relation to legislative means of tackling match-fixing and betting related corruption. There have only been a small handful of cases brought under Section 42 of the Gambling Act and of these, only four have been successful relating to the Pakistani cricketers Muhammad Asif, Mohammed Amir, Salman Butt and their agent Mazhar Majeed.

Whilst there have been few convictions under the Bribery Act in general, April 2015 saw its first successful use in the context of match-fixing. This came against the former professional footballer Delroy Facey who was sentenced to two and a half years after being found guilty of conspiracy to commit bribery. Facey, who played for Bolton Wanderers, West Bromwich Albion and Hull during his career, was found to be acting as a middle man between Asian betting syndicates and Conference footballers. He is reported to have offered £2,000 to a Hyde FC player (who has not been involved in any form of match-fixing) to ensure that the team conceded four goals, two in the first half and two in the second.

The success of the Gambling Act and Bribery Act need to be considered alongside the vital role that SGBs play. A criminal conviction has a high standard of proof and the current laws in place do not reflect the complex and very different circumstances that occur in match-fixing and betting related corruption. Sport is very important to many people but there is a valid argument that limited police time and resources should be spent on protecting the public interest in other ways. It is therefore the responsibility of SGBs to have effective rules and regulations in place to deal with match-fixing and betting related corruption, other than those of the most serious nature that require police attention.

A good example of a SGB using its rules effectively can be seen in the case of Stephen Lee who was banned from snooker for twelve years in 2013 after being found guilty on seven charges of match-fixing. He had been arrested in 2010 following a police investigation into match-fixing and betting related corruption but the charges were not pursued, presumably due to the fact that the CPS were not confident in finding enough evidence to secure a criminal conviction. In general SGBs have a lower burden of proof than the criminal standard for all offences and in Stephen Lee's case the SGB was able to secure their own conviction (which was later upheld on appeal) and reclaim costs of £105,000.

Are there any exciting developments or recent trends to look out for?

Perhaps the most significant from a legal perspective is the signing in late 2014 of the Council of Europe's (the "**Council**") Convention on the Manipulation of Sports Competitions (the "**MSC**") which

was agreed by all its members. The Council consists of 47 member states and is separate to the European Union (though EU members are all members of the Council). The Council's primary focus is promoting human rights, democracy and the rule of law.

The most important measures are that member states who sign up to the MSC will:

- encourage SGBs (at both a national and international level) to have rules in place to prevent the corruption of their sport;
- facilitate at a national and international level for all relevant stakeholders (such as public authorities, SGBs, competition organisers and betting operators) to share information;
- fight illegal sports betting (due to its links to organised crime and match-fixing); and
- harmonise criminal sanctions and cooperate internationally both generally and on criminal matters relating to corruption in sport.

Whilst the framework laid out is definitely a step forward in fighting match-fixing and betting related corruption, the MSC is only as powerful as the willingness of its member states to legislate for its introduction. Whilst the UK government has not signalled an intention to implement the MSC, at the end of 2014 it launched its 'Anti-Corruption Plan' which included having the Department for Culture Media and Sport (the "**DCMS**") considering the MSC. At the end of June the DCMS confirmed that the Government will consider whether to sign the MSC after the European Commission's proposals for the EU are concluded which is expected later this year.

There have also been some notable moves by SGBs to address match-fixing and betting related corruption. UEFA signed an MoU with Europol in which both parties will share information on suspected match-fixing by individuals and any organised crime associated with it. FIFA had a similar arrangement with INTERPOL before it was ended this year.

Outside of football the International Olympic Committee ("**IOC**") launched its Integrity Betting Intelligence System ("**IBIS**") in 2014 which started operating in time for the Sochi Winter Olympics. Through a series of MoUs with betting regulators, betting associations and betting operators IBIS collects alerts and information on sports betting relating to IOC events. Last month the IOC confirmed that all 28 summer SGBs for the Olympics had signed up to IBIS. Whilst the IOC only deals with match-fixing and betting related corruption around and during the Olympic Games, the information gathered by IBIS is made available for SGBs during their major championships.

There is a clear trend for SGBs, international organisations and the betting industry to work more closely together to try to eliminate match-fixing and betting related corruption. These steps are encouraging as cooperation between the parties will in turn lead to a deeper understanding of the circumstances that lead to match-fixing and betting related corruption and help to build a potent defence for sporting integrity. Unfortunately, due to the large sums of money involved in match-fixing and betting related corruption the issue may never be fully eradicated. However, there are practical steps that can be taken, such as those listed above, to help minimise the risk of an SGB being targeted and being able to appropriately react if they are.

Daniel Alfreds is an Associate at specialist sports law firm Couchmans LLP. Daniel advises on a range of matters including the use of sports data, integrity issues with sports governing bodies, sponsorship and general commercial matters.

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