

## STRICTLY CONFIDENTIAL: NOTE TO ICC EXECUTIVE BOARD

### INDEPENDENT REVIEW OF THE ANTI-CORRUPTION CAPABILITY OF THE ICC BERTRAND DE SPEVILLE

In his report, Mr de Speville makes **27 Recommendations** as to the operating policies and practices of the ACSU.

ICC management's preliminary response to each recommendation falls into one of the following three categories:

ICC accepts the recommendation.	13 / 27	SHADED <u>GREEN</u>
ICC has always acted in accordance with the recommendation and it agrees to maintain that Policy and/or Practice moving forward.	7 / 27	SHADED <u>PURPLE</u>
ICC has preliminary reservations about the recommendation, but commits to explore it in more detail, both internally and with stakeholders.	7 / 27	SHADED <u>ORANGE</u>

In the table that follows, the preliminary response to each of the **27 RECOMMENDATIONS** is set out:

NUMBER	RECOMMENDATION	ICC RESPONSE
1	It should be a breach of the codes of conduct to seek or accept a gift without the permission of the ICC. The rule should apply not only to players and player support personnel but also to match officials, employees and board members.	<p>The ICC is already well aware of the potential for misuse of gifts by corruptors. It therefore includes a section on this as part of its education program and there is a related offence in the current version of the Anti-Corruption Code.</p> <p>The ICC will consider the detail behind the specific recommendation, through a process of consultation with its wider group of stakeholders, in order to determine an appropriate regulatory mechanism that achieves the aim of the</p>

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		<p>recommendation in a proportionate and effective manner.</p> <p>The ICC will also take time to consider the report of Lord Woolf (independent governance review) before concluding on the issue of the management of gift declarations.</p>
2	<p>An offence of unexplained wealth applicable to players, player support personnel, match officials and ICC employees should be included in the relevant codes of conduct.</p>	<p>The ICC's preliminary reaction is that to attempt to try and implement such a system to international players and support personnel from different jurisdictions, whose assets may have been transferred into further jurisdictions, who are at different stages in their careers, who have many different sources of income, and which is likely to require the cooperation of governments and/or financial institutions, is likely to be very difficult indeed, not to mention hugely burdensome on the players and extremely difficult to administer.</p> <p>Nevertheless, the ICC understands and accepts the rationale behind the recommendation and will consider it further with its wider group of stakeholders.</p>
3	<p>The minimum periods of ineligibility should be omitted.</p>	<p>The ICC's preliminary reaction is that removing minimum periods of ineligibility, which were arrived at after rigorous consultation with all stakeholders, would not necessarily be appropriate for all of the offences in the Anti-Corruption Code.</p> <p>Nevertheless, the ICC understands the rationale behind the recommendation and will consider it further with its wider group of stakeholders.</p> <p>It must be noted that prevailing mood across all sectors of cricket, at this time, is that there needs to be a strong message of deterrence. Severe minimum periods of ineligibility, whilst remaining proportionate to the offence committed, are most likely to have the necessary effect - certainly there is a risk that to remove the minimum sanctions would be to send the wrong</p>

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		<p>message to those considering engaging in corrupt activity.</p> <p>Naturally, any change in practice in this area will need to be reflected through appropriate amendments to the Code.</p>
4	<p>The operating maxim of the ACSU should be that in everything it does the unit is open and transparent except where it has to be confidential for operational effectiveness.</p>	<p>The ICC accepts that there is potential benefit for the ACSU to operate with more transparency and will consider how best to implement this recommendation.</p> <p>However, it should be noted that such additional transparency should not come at the price of failing to preserve confidentiality and/or the integrity and/or effectiveness of any investigation or operation.</p>
5	<p>Information conveyed by the ACSU to a third party should not include the identity of the original source.</p>	<p>This is consistent with ACSU's policy and practice since inception and no evidence was found that such policy/practice had not been rigorously applied at all times. It will continue to be an operating policy/practice of the ACSU moving forward.</p>
6	<p>Any leak of confidential information should be traced and remedied.</p>	<p>This is consistent with ACSU's policy and practice since inception and ACSU will continue to preserve confidential information and to trace and remedy any leak, should one arise. However, no evidence was found that any leak of confidential information had ever originated from the ACSU.</p>
7	<p>The separate treatment of corruption in the playing and administration of the game should be reconsidered.</p>	<p>The ICC is already operating an 'Integrity Unit' (since September 2011) which combines the important areas of anti-doping, anti-corruption and ethical compliance. The main purpose for this newly created unit is to ensure effectiveness and efficiency in all matters that could potentially damage the integrity of the game.</p>

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8	The decision to bring disciplinary proceedings should be taken by the prosecutor, whether internal or external.	<p>At present, Article 4.5 of the Anti-Corruption Code provides that a decision to charge is taken by the ACSU's General Manager, acting in consultation with the ICC's CEO and Head of Legal.</p> <p>The ICC has experienced no issues with this allocation of responsibility, but recognizes that it may be beneficial to require separation of function, such that the prosecutor (and not the investigator), free from any other influence, makes the ultimate decision to charge under the Code.</p> <p>Such a change will require appropriate consultation and amendments to be made to the Code.</p>
9	Minor breaches of any of the ICC's codes or rules of conduct should not be prosecuted before a tribunal but should be addressed by the appropriate ICC official or domestic authority on behalf of the ICC or, in the case of ICC officials and staff, by the relevant ICC head of department or the CEO of the ICC.	<p>The ICC believes that all disciplinary proceedings brought under the Anti-Corruption Code must be as independent as possible and free from any suggestion of partiality. Accordingly, any recommendation that the independent tribunal, made up of highly qualified members of the legal profession, should cede authority to a 'domestic authority' (to rule on a matter involving its own player) or to an ICC member of staff, ought to be scrutinized with great caution.</p> <p>The ICC remains unclear as to the efficacy of this recommendation, but will nonetheless consider it further with its wider group of stakeholders.</p>
10	The progress made by the ICC in reducing corruption in cricket should be measured at regular intervals.	Agreed.
11	The ACSU should routinely collate and produce statistics of the allegations and	Agreed, provided that the ICC reserves the right to withhold publication of certain statistics where it considers such publication may breach

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	information it receives.	confidentiality, or where it could lead to unnecessary speculative interpretation.
12	The ICC should commission at regular intervals, preferably biennially, a survey of international and domestic players and support personnel and international and domestic officials and administrators.	Agreed. The ICC will liaise with relevant stakeholders in order to ensure that the questions in the survey are appropriate and there is no unnecessary duplication of the ongoing activities of other stakeholders.
13	The ICC should adopt a policy that requires the ACSU to address every allegation of corruption that can be investigated.	This is consistent with ACSU's policy and practice since inception and no evidence was found that such policy/practice had not been applied at all times. It will continue to be an operating policy/practice of the ACSU moving forward.
14	The ACSU should adopt and promulgate a policy of investigating a breach of any of the codes only when it receives an allegation against an individual.	<p>The ICC's preliminary reaction is that it disagrees with this recommendation and believes that the ACSU, should, instead, have the freedom, and indeed responsibility, to investigate any person, matter or circumstance which it considers merits investigation.</p> <p>Nevertheless, it will consider the recommendation further with its stakeholders, but the ICC has significant concerns that it would erode the responsibility and credibility of the ACSU, and its effectiveness as a tool for deterrence, if it was not seen as being proactive (as opposed to reactive) in its fight against corruption.</p>
15	A qualified analyst should be appointed to the ACSU.	Agreed.

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16	The appointing authority of the ICC should be required to obtain an integrity rating from the ACSU before making any staff appointment or promotion.	<p>The rationale is well understood, but care needs to be exercised as any such rating system would be based on limited intelligence reports (the details of which cannot be shared due to confidentiality) and may subject the ICC to unnecessary legal risk and challenge, where individuals are declined employment on the strength of any such rating.</p> <p>Due to legal implications, the ICC needs to consider this recommendation with its counsel.</p>
17	The ICC with the involvement of the ACSU and Member boards should introduce an accreditation system for agents of international players.	Agreed. The ICC had previously identified this as an area which needed to be addressed. In that regard, it has already developed a draft set of regulations, which will be circulated to all relevant stakeholders in due course.
18	The ICC should not introduce or support the use of the polygraph until its validity and admissibility have been accepted by the courts.	This is consistent with the ACSU's current practice and public position on this matter since it was first mooted.
19	The ICC should be ready to increase the number of investigators employed in the ACSU if the number of pursuable allegations rises.	Agreed. This is standard operating policy and practice of the ICC.
20	The ICC should increase the management capacity of the ACSU.	At present the ICC does not accept that the ACSU requires further management capacity. This viewpoint is naturally dynamic and is continually under review, particularly if the need arises for significant ACSU involvement in domestic cricket.

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21	The recruitment of a communicator with suitable experience as a cricketer should be started without delay.	<p>Agreed. A suitably experienced communicator will enhance the ACSU's Education Program and it will start to consider how best to engage with and utilize the skills and services of such person.</p> <p>The ICC will consider whether such person need be recruited on a full-time basis and whether factors such as language and availability will need to be taken into account, as well as the role of the Regional Security Managers.</p>
22	A further five RSMs should be engaged on a part-time basis.	The principle is agreed and the ICC will carefully consider the future workload and existing capacity requirements to determine the optimal number of Regional Security Managers needed.
23	The ACSU should be operationally autonomous and not subject to the direction of any part of the ICC. It should be accountable to the Board via the CEO and administratively responsible to the CEO.	<p>This is consistent with the way that the ACSU has, in fact, been operating in recent times, and will continue to be so.</p> <p>The recommendation appears to have arisen out of the language in the current version of the Terms of Reference of the ACSU, which are in need of updating to reflect the operational practice.</p>
24	The evolved role of the Code of Conduct Commission as an adjudicating tribunal should be formalised.	Agreed. The ICC accepts that the language in the current version of the Terms of Reference of the ACSU requires updating so as to reflect the current operational practice.
25	The Chairman's oral reporting should be supplemented by a written annual report and the report should be made available to member boards, the professional players	The ICC will consider this recommendation further having due regard to the importance of striking the correct balance between transparency and the need to preserve confidentiality and/or the integrity and/or effectiveness of any investigation or operation.

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	associations and the media.	
26	The ACSU's operating practice should be formalized so as never to reveal the identity of its source of information except when the source is willing to testify.	This is consistent with the ACSU's policy and practice since inception and no evidence was found that such policy/practice had not been rigorously applied at all times. It will continue to be an operating policy/practice of the ACSU moving forward.
27	The ACSU should not normally comment on any particular investigative matter.	This is consistent with ACSU policy and practice since inception and no evidence was found that such policy/practice had not been applied at all times. It will continue to be an operating policy/practice of the ACSU moving forward.

**30 January 2012**