

THE SETHI INVESTIGATION
INTO YORKSHIRE COUNTY CRICKET CLUB

TERMS OF REFERENCE

1. Introduction and Background

- 1.1. There has been widespread media coverage of Yorkshire County Cricket Club's ("YCCC") mishandling of its investigation into allegations of discrimination and harassment brought by Azeem Rafiq.
- 1.2. A number of further complaints of discrimination have been made to YCCC and in the media, raising serious concerns of unequal and detrimental treatment on prohibited grounds.
- 1.3. In view of the seriousness of the complaints and the wider public interest in the culture, integrity and good governance of county cricket, YCCC considers that it is both necessary and desirable for there to be an independent investigation ("**Investigation**") which will investigate and determine formal written complaints of unlawful discrimination as a result of any act or omission of YCCC lodged by email by any person ("**Complainant**") through the dedicated 'Whistleblowing Hotline' which opened on 15 November 2021 ("**Complaints**").
- 1.4. Mohinderpal Sethi QC of Littleton Chambers is instructed to chair the Investigation ("**Chair**"). The Chair has been selected based upon his relevant qualifications, experience, expertise and independence. Complaints
- 1.5. The terms of reference for the Investigation ("**Terms of Reference**") are set out below.

2. Purpose and Scope

- 2.1. The purpose of the Investigation is to independently investigate:
 - (1) the Complaints; and
 - (2) any other complaints referred to the Chair by YCCC ("**Referred Complaints**").
- 2.2. Should any allegation contained in a Complaint fall outside of these Terms of Reference, then:
 - (1) the Chair will inform the Complainant accordingly; and
 - (2) the Chair will be permitted to decide in his absolute discretion whether to provide such information regarding those matters to YCCC,

but will not make any determination in respect of those matters.
- 2.3. Where issues are referred to the police, a police investigation will take precedence over the Investigation. Notwithstanding the above, at the Chair's sole discretion and after discussion with YCCC, the Investigation into such issues may continue in parallel with any police investigation or investigation by other statutory body.

3. Roles and Responsibilities

- 3.1. YCCC, as the commissioning body, shall:
 - (1) nominate and empower a representative to commission the Investigation on behalf of YCCC ("**Representative**");
 - (2) fully assist the Chair with regard to the Investigation; and
 - (3) be bound by the Chair's findings and determinations and will seek to action any recommendations made.
- 3.2. The Representative shall:
 - (1) confirm the appointment of the Chair;
 - (2) agree to these Terms of Reference;
 - (3) procure and facilitate any technical advice and administrative support that the Chair requests;

- (4) provide such documentation and information as the Chair requests;
- (5) receive progress updates on the Investigation from the Chair; and
- (6) receive reports from the Chair in respect of the Complaints or Referred Complaints, review them for factual accuracy and omissions only, and implement appropriate actions, having regard to the Chair's findings, determinations and recommendations.

3.3. The Chair shall decide in his absolute discretion how the Investigation will be conducted. This shall include but not be limited to matters relating to:

- (1) gathering evidence in relation to the Complaints or Referred Complaints;
- (2) conducting interviews with all those individuals who are: (a) Complainants; (b) the subject of the Complaints or Referred Complaints; and/or (c) otherwise relevant to the Complaints or Referred Complaints ("**Individuals**"); and
- (3) producing reports setting out his findings and determinations together with any recommendations.

3.4. The Chair may appoint persons of appropriate experience, expertise and independence to assist him with the Investigation.

4. Representation Process (Maxwellisation)

4.1. Any summary of findings, determinations and recommendations intended for publication will, if required, be subject to a Maxwellisation process for potentially affected parties to correct any errors of fact in relation to any draft criticism of those parties in respect of which they have not already had an opportunity to respond.

5. Attendance at Interviews, Anonymity and Minors

5.1. No person making or otherwise relevant to the Complaints or Referred Complaints will be compelled to participate in the Investigation, although anyone with relevant evidence in respect of the Complaints or Referred Complaints is encouraged to give evidence.

- 5.2. If an Individual does not wish to have their name disclosed, this should be made clear in any written submission to the Investigation. The Chair will consider whether he is able to agree to this request or will seek further information from the Individual to understand why the request has been made.
- 5.3. No individual under the age of 18 will be mentioned by name or otherwise identified in any report produced for the purposes of the Investigation. For the purposes of the Investigation, the age of an individual is determined as at the date of the submission of any information provided to the Investigation.

6. Timing

- 6.1. The Investigation shall commence on Monday, 15 November 2021.
- 6.2. The Chair will complete the work in a timely manner and aim to provide reports to YCCC as soon as reasonably practicable.

7. Administrative Support

- 7.1. YCCC will procure and facilitate administrative support to the Chair.

8. Resource

- 8.1. The cost of the Investigation shall be borne by YCCC.

9. Confidentiality

- 9.1. YCCC and the Chair shall keep confidential all confidential information received as a result of the Investigation and shall not use or disclose the same save:

- (1) as provided for in these Terms of Reference;
- (2) that YCCC shall be entitled to use all and any such information and documents that may come into the possession of the Investigation in any legal, tribunal or regulatory or disciplinary proceedings;
- (3) as required for the purpose of communication with any statutory regulatory authority; or
- (4) as required by law; or

(5) as otherwise agreed between the person providing the confidential information and/or YCCC and/or the Chair; or

(6) in relation to matters that are in the public domain.

9.2. Confidential information shall only be disclosed to those of YCCC's and the Chair's respective employees, consultants or agents or any Individuals who need to know it for the purposes of the Investigation or any subsequent disciplinary process provided that the recipient of such information is bound by obligations of confidentiality no less onerous than those provided herein and each party shall be responsible to the other in respect of any disclosure to such a person.

9.3. The Investigation shall, as far as is reasonably practicable, be kept confidential but neither YCCC nor the Chair can give any assurances of confidentiality or anonymity to the Individuals who provide information. The Individuals shall be advised not to discuss the Investigation with any other of the Individuals, or any employees, consultants or agents of their own organisations, or any third parties, and shall be reminded of their legal duties of confidentiality. This is without prejudice to any legal right of an Individual to take legal advice.

9.4. The Chair will consider the need for referral to the relevant statutory authorities of information he considers to be of a criminal nature, raise immediate safeguarding concerns or be a potential violation of anti-doping regulations. In those circumstances, the person whose personal information will be shared will be notified, where it is possible to do so.

Monday, 22 November 2021