

A REVIEW
OF THE ANTICORRUPTION ARRANGEMENTS
OF THE INTERNATIONAL CRICKET COUNCIL

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Bertrand de Speville¹

INTRODUCTION AND BACKGROUND

The problem of corruption in cricket has been highlighted by a number of scandals over the last thirty years. They have prompted the International Cricket Council to take vigorous action against the problem. That action has been guided by the recommendations made in a notable 2001 report by Sir Paul Condon (as he then was) and the codes of conduct and procedures proposed by the management of the ICC's Anti-Corruption and Security Unit and put in place by the Board of the ICC.

This review comes 10 years after the Condon Report and builds upon the foundations laid then.

The consultant was invited to conduct the review and to recommend whether any further steps should be taken by the ICC to safeguard the integrity of the game. His terms of reference are at Annex 1.

THE COURSE OF THE REVIEW

For the purpose of the review the consultant visited the ICC headquarters in Dubai and met the ICC senior staff. Further meetings took place in London

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where ICC staff, former staff, adjudicators, authorities and advisers were available. The meetings held are listed at Annex 2. A number of individuals, including the chief executives of member associations, were consulted by correspondence. They are listed at Annex 3.

The consultant was provided with a number of documents. They are listed at Annex 4. For ease of reference an index of recommendations is at Annex 6.

CURRENT SITUATION

The problem of corruption in cricket has not gone away despite the efforts of the ICC and its ACSU. That utopian outcome was never to be expected. The well-publicised case of the three Pakistani cricketers in Test matches at The Oval and at Lords in 2010 illustrates the reality, although there is a view (not widely shared by those involved in the administration of the game) that that occurrence was an isolated instance. The recent allegations that have enveloped the world of football have heightened the sense of alert in the cricket world.

The analysis of corruption in cricket contained in Sir Paul Condon's report of April 2001 remains as valid today as it was then. Regrettably there is no reason to believe that the risk is any less today than it was then. The following paragraph from his report should be borne in mind:

“Whilst corruption at the playing level is now well documented, equally serious allegations are emerging about individuals involved past and present in the administration of cricket. It is too early to form judgments about these allegations and the picture is confused by internecine struggles within individual countries for control of cricket. Also personal rivalries have undoubtedly led to smear campaigns. Nevertheless, the sums of money now coming into cricket centrally through the International Cricket Council and those generated by individual boards are large by any standards. The current corporate governance arrangements within cricket are inadequate for the task. Investigations will continue into alleged corruption in television rights contracts and related issues.”

The view of those consulted is that the arrival of international T20 cricket and the Indian Premier League has considerably increased the risk of match-fixing

and spot-fixing. By contractual arrangement the ICC provides services to the IPL. There is also no reason to suppose that the risk of corruption unconnected with betting will have diminished.

CHALLENGES

International cricket has become a highly lucrative sport, for commercial sponsors, for the betting industry (legal and illegal), for some, but not all, players and for the cricket authorities, national and international. The popularity of the game has increased the value of television rights, advertising and sponsorship for matches and competitions. There is a great deal of money to be made in hosting a successful event. In short, there is much more money in the game than previously. That trend is likely to continue provided that the game is seen to be 'clean'. It is necessary to state that proviso as a fundamental belief of the managers, participants and supporters of the game.

Almost inevitably greater wealth in the game will tempt some to quick riches through corruption and dishonesty. Given the considerable size of the betting industry, those involved in match-fixing and spot-fixing will continue to tempt players and their support personnel, ground staff and match officials. The challenge for the cricket authorities is to minimise the opportunities for corruption and to deter those who would be tempted.

The award of tournaments and matches and the letting of commercial contracts connected with them also provide opportunities for corruption and dishonesty. It would be a mistake to fail to recognise those temptations and to take appropriate precautions. These challenges take a different form from those presented by the betting industry but can be as damaging, as other sports have discovered.

THE CURRENT ANTICORRUPTION ARRANGEMENTS

The focus of the ICC's anticorruption efforts to date has been match-fixing and spot-fixing. It is this area of corrupt activity that has generated much of the information received by the ICC's ACSU. In consequence the ICC's three-part anticorruption strategy (enforcement, prevention and education) has naturally been drawn to those activities that involve players, player support personnel and match officials.

The ACSU's mandate is not limited to the activities of players, player support personnel and match officials. In May 2011 the Chairman of the ACSU was publicly describing the role of the unit in these terms: a remit to "assist the I.C.C. in the eradication of conduct of a corrupt nature prejudicial to the interests of the game of cricket, and to provide a professional permanent and secure infrastructure to act as a long-term deterrent to such conduct". The unit's terms of reference sets out one of its two principal roles, under the heading Anti-Corruption:

"To assist the ICC Code of Conduct Commission ('the Commission') and the Members of ICC in the eradication of conduct of a corrupt nature prejudicial to the interests of the game of cricket; and to provide a professional, permanent and secure infrastructure to act as a long term deterrent to conduct of a corrupt nature prejudicial to the interests of the game of cricket."

The ACSU has been in place for some 10 years. In recent times a perception has developed in the ACSU and more widely in the ICC that the unit's anticorruption role is limited to the activities of players, player support personnel and match officials. In other words, the ACSU is concerned with corruption in the playing of the game but not with ancillary aspects such as the award of fixtures or the letting of commercial contracts.

How this development has come about is unclear. Nor is its rationale self-evident. Yet it is borne out by the latest organisation chart issued to ICC staff that shows the formation of an Integrity Unit comprising two sections called 'ACSU' and 'Anti-doping'. Within the Anti-doping section is situated 'Doping' and 'Ethics & General Corruption'. This division of responsibility for addressing the problem of corruption in cricket is considered later in this report.

Since the ACSU was established in 2001 its role has been to implement the ICC's anticorruption strategy. Since 2005 its role has included ensuring that the security arrangements at international matches for players, support personnel and match officials are adequate. It made sense that both roles should be combined in the ACSU, given the common considerations that apply in securing the players and match officials area (PMOA) from unwanted intrusion. However, since security concerns do not necessarily have a corruption aspect, it is quite conceivable that security should be the responsibility of a unit

separate from the unit concerned with corruption. In June 2011 when the consultant visited the ICC in Dubai, both anticorruption and security came within the responsibility of the ACSU.

One of the ACSU's central functions is to receive information about corruption. Without good information about what is going on, getting to grips with the problem is impossible. The unit has to be the antennae of the ICC, sensitive to the faintest signals. In the fight against corruption it is the faint signals that often carry the most important information.

Equally central to the ICC's stance against corruption and therefore to the role of the ACSU is how the information received is dealt with. Bearing in mind Sir Paul Condon's observation in his 2001 report that "ambivalence to facing up to the challenge of corruption remains a real threat to the integrity of the effort to clean up the game", the process by which allegations are considered and disposed of is vital to the perception of the ICC's determination to address the problem.

As in any endeavour, it is essential to know whether any progress is being made. Experience has shown that in fighting corruption the most reliable gauge of progress is a regular survey of the constituency. That is not something that the ICC has done before, at least not in relation to corruption in the game. The measure of progress lies not in the number of disciplinary actions taken nor in the distribution of intelligence to national authorities but in the perceptions and personal attitudes of the participants in the game.

APPROPRIATENESS AND EFFECTIVENESS OF THE "ICC ANTI-CORRUPTION CODE FOR PLAYERS AND PLAYER SUPPORT PERSONNEL"

In every form of institution a code of conduct has proved its value in conveying to its members and employees the standards expected of them. In that respect the ICC is no different.

The ICC Anti-Corruption Code for Players and Player Support Personnel is a well-intentioned and necessary document. In modern times it is essential that those involved in a professional sport should clearly understand what conduct is forbidden. The rationale for the code is set out in Article 1. The conduct that is forbidden is set out in Article 2. The remaining articles (3-11) deal with

evidential and procedural matters and are addressed not so much to the players as to their managers and legal advisers.

In recognition of the fact that most of the code is unlikely to hold the attention of the player and risks failing to convey to him the essentials, the ICC has produced the Advice Card for Players and Player Support Personnel. The latest (and greatly improved) version is dated January 2011. In language that recognises that English may not be a player's first language and in a small leaflet format, the advice specifies the conduct that is forbidden and the sanctions that could follow. Overleaf the basics of the PMOA system are described. There follows the crucially important advice on the dangers to look out for and how to react to an improper approach. In conveying the essentials to players and player support personnel, the advice leaflet is even more important than the code itself.

It is not intended that this review should consider the effectiveness of the procedural aspects of disciplinary proceedings. Views on the matter would in any event be premature before the conclusion of any appeal that might be made to the CAS in connection with disciplinary proceedings arising from the Test matches between England and Pakistan in 2010.

In connection with the conduct of players and player support personnel, two omissions from the code need consideration.

Gifts

Gift-giving is often the precursor to an improper approach. In the code the control of gifts is not strict enough. Gifts from inappropriate people are a risk, often a prelude to compromise, as the code itself makes clear. On the other hand permitted gifts should be a normal part of the regard in which an international cricketer is held. The management of permitted gifts is and should be an important part of the ICC's effort to safeguard the integrity of the game.

The wording of paragraph 2.4.1 which mentions gifts is inadequate for the purpose of managing the problem. It reads:

'Providing or receiving any gift, payment or other benefit (whether

of a monetary value or otherwise) in circumstances that the Player or Player Support Personnel might reasonably have expected could bring him/her or the sport of cricket into disrepute.'

The guidance note inserted into the paragraph does nothing to strengthen this provision. It should be pointed out that none of the ICC's other codes (including the current draft Code of Ethics for the ICC) deals adequately with gifts.² The words 'in circumstances that the Player...might reasonably have expected could bring him/her or the sport of cricket into disrepute' are insufficiently precise and leave the player in the invidious position of having to decide the matter for himself.

The ICC's regulation of the acceptance of gifts could and should be improved. It should be a breach of the applicable codes of conduct to solicit or accept any gift without the permission of the ICC. General permission would be given by the ICC for gifts it regards as always acceptable, for example a usual birthday gift or an item of cricket equipment or whatever the ICC thinks fit to include in such a list. No doubt the Ethics Officer's views on what should be included in the general permission list would carry much weight. Gifts not included in the general permission list would require specific permission from the appropriate ICC officer. Soliciting or accepting a gift without general or specific permission would be a breach of the code.

The applications for specific permission would describe the gift, the circumstances of its offering and acceptance, the identity of the donor and the applicant's estimate of its value. It would also propose how the gift was to be disposed of: kept, shared, consumed, donated to charity or returned to the donor. On receiving the application the ICC would consider the circumstances and give its decision. The applicant would be bound by the ICC's decision.

The applications would replace the gift registers which serve little purpose and seem to have registered very little to date. The code would require that, in case of doubt whether a gift was generally permitted, specific permission

² The current Code of Ethics (2005) does at least require disclosure of gifts to the Ethics Officer, a requirement evidently honoured more in the breach than the observance. Gifts judged by the recipient to be of nominal value are exempt from the requirement.

should be sought. It would also indicate that gifts from certain categories of donors were never acceptable.

Experience in other walks of life shows that a gift offence (less serious than bribery) is an invaluable alternative offence in the numerous instances where the necessary connection between the gift or benefit and the improper conduct cannot be proved.

It is recommended that 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. The wording of such a provision in the relevant code of conduct is suggested at Annex 5.

Unexplained wealth

In practice, proving that a player has been bribed is often problematic. In many, but not all, common and civil law jurisdictions the offence of 'unexplained wealth' or 'illicit enrichment' has had a considerable effect in the fight against corruption. The offence applies to certain people whose salaries are known (typically civil servants). The offence consists in owning property or living a life style in excess of official earnings unless a satisfactory explanation for the excess is offered to the tribunal. The relevant ICC codes already require a suspect to provide information. When an allegation is made about an individual, he could become the subject of an investigation into this offence. If it can be shown that he has wealth or enjoys a lifestyle far in excess of his contractual earnings, he could be called on to provide an explanation of how he came by such wealth or is able to enjoy such a lifestyle. If he failed to provide a satisfactory explanation he would commit a breach of the code. It would enhance the ICC's armoury against corruption and act as a deterrent.

There is in principle and in practice no good reason why a player, a member of his playing entourage, or anyone employed in the international administration of the game should not have to explain his wealth or lifestyle that is shown to be far in excess of his contractual earnings, a failure to do which would be a breach of the code that binds him.

It is recommended that 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. Its inclusion would add to the ICC's armoury against corruption and act as a deterrent. The device of transferring legal ownership while retaining control or beneficial ownership can be effectively addressed. The wording of such a provision in the relevant code of conduct is suggested at Annex 5.

Sanctions

A breach of the anti-corruption code is visited by the sanctions set out in article 6.2. It is to be noted that every breach entails a minimum period of ineligibility. The reason for requiring a minimum period does not appear from the code and is not self-evident.

It must be assumed that the Board felt that the tribunal's sentences had been too lenient and that corruption offences were always so serious as to merit a severe minimum sentence. This thinking must have justified abandoning the normal principle of letting the tribunal decide the appropriate sentence up to a specified maximum.³

Corruption is a serious matter but minimum sentences are likely to be counter-productive. Many breaches of the code will not merit, in the particular circumstances of the case, the minimum period of ineligibility specified. In consequence tribunals become reluctant to find a breach proved if they would then have to impose an unjust sentence. Furthermore, unjust sentences risk alienating the cricketing community. Community support is one of the essentials for success against corruption. Lack of support results in lack of information. The ICC cannot hope to get on top of the problem of corruption in cricket unless the ACSU receives good information.

The normal principle in the administration of justice of leaving it to the tribunal to impose the appropriate sentence, subject to a maximum, should be

³ There was nothing to suggest that the tribunal had in fact imposed sentences that were too lenient, but minimum sentences are said to be supported by international players and officials. If their views on the matter were to be formally canvassed, care should be taken to explain why minimum sentences are wrong in principle and likely to be counter-productive. It should be noted that cricket is not the only sport to demand minimum sentences.

reinstated. It is recommended that the minimum periods of ineligibility should be omitted.

APPROPRIATENESS AND EFFECTIVENESS OF ACSU'S BASIC METHOD OF OPERATION IN THE CONTEXT OF ITS FOUR MAIN WORKSTREAMS – EDUCATION; VIGILANCE; INTELLIGENCE; INVESTIGATION

The ACSU appears to be doing a good job. However, the information about what is being achieved is limited.

There are two current perceptions of the ACSU that should be addressed. The first is that the unit is highly secretive and no one knows what it gets up to. The second is that information that comes into the unit is not as secure as it should be. These perceptions are not as contradictory as they might at first appear. Both are harmful to the effectiveness of the ACSU and every effort must be made to correct them.

As regards the first perception, the danger to the ACSU itself is that ignorance of its work and its achievements breeds suspicion that its budget is wasted and that there is little point in wasting further resources. While it is essential that much of the unit's work should be confidential, it is equally important that its existence, its objectives and its achievements should be as widely known as possible, especially within the game itself. The right balance between openness and confidentiality must be found, a balance that meets the expectation of the times. It is always the tendency for such a body to develop its secretive side rather than its transparent side. That tendency should be actively counteracted.

It is recommended that 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.

As regards the second perception⁴, any leak of confidential information out of the ACSU would cause immediate harm to the unit's operational effectiveness in the intelligence and investigative side of its remit. It must be recognised that the provision of intelligence reports to other authorities creates the risk of

⁴ The evidence was merely anecdotal and could not be substantiated.

leakage of confidential information. The most damaging leak is the one that discloses the original source of the information.

Two recommendations follow. First, it is recommended that information conveyed by the ACSU to a third party should not include the identity of the original source. Second, it is recommended that any leak of confidential information should be traced and remedied.

Much information comes to the ACSU. It comes from a variety of sources. Among the numerous pieces of intelligence will be allegations of improper conduct. Unfortunately no statistics are readily available of the categories of this information. Without a laborious extraction and analysis of the information, it is not possible to know the nature, quantity, quality or origin of the information being provided. Nor is it possible to know the kinds of breached alleged. Without that knowledge, preventive and educational action cannot be accurately directed.

The information provided nevertheless allows a number of observations about the corruption problem in cricket and about the ACSU itself.

The ACSU continues to be necessary to the integrity of cricket if the ICC is to maintain its highly regarded and valuable position as a world leader in the fight against corruption in sport. The ACSU acts as the 'eyes and ears' of the ICC. One of its functions is to investigate breaches of the Code of Conduct of the ICC. Its role is not therefore limited to upholding only the ICC Anti-Corruption Code for Players and Player Support Personnel. The justification for the recent division of responsibility for addressing the problem of corruption in cricket, referred to earlier, is unclear. What is clear is the duplication of effort by having two separate sections both concerned with the problem of corruption, the risk of leakage of confidential information inherent in the transfer of information from one section to the other, and the perception that corruption in the playing of the game is regarded and treated differently from corruption in the administration of the game.

It is recommended that the separate treatment of corruption in the playing and administration of the game be reconsidered.

It is undesirable that the ACSU should be both investigator and prosecutor. The decision to bring proceedings before a tribunal should not be taken by the unit. It is recommended that the decision to bring disciplinary proceedings should be taken by the prosecutor, whether internal or external.

It is recommended that 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.

It is recommended that the progress made by the ICC in reducing corruption in cricket should be measured at regular intervals. It is the only way of satisfying the ICC's constituents that the authorities are getting and staying on top of the problem. The two accepted ways of measuring progress are the generation of statistical information and the regular survey of constituents.

In pursuance of the previous recommendation, it is recommended that the ACSU should routinely collate and produce statistics of the allegations and information it receives. It is necessary to provide figures on:

the number of reports made to the ACSU;

of those reports, the number that allege breaches of the codes and those that are intelligence information only;

of alleged breaches of the codes, the number relating to breaches of particular provisions and the number relating to players, support personnel, match officials, staff and administrators;

of alleged breaches of the codes, whether the reports come from players, player support personnel, match officials, RSMs or others;

of alleged breaches of the codes, the number that are pursuable (ie capable of investigation) and those that are not;

of allegations pursued, the number resulting in disciplinary action and the number closed as meriting no further action;

of those resulting in disciplinary action, the nature of the action taken and the outcome.

The statistical picture that emerges will give the ICC a better idea of the nature and extent of the problem it is dealing with and enable it to direct its anticorruption efforts accordingly.

It is recommended that the ICC commission at regular intervals, preferably biennially, a survey of international and domestic players and support personnel, and international and domestic officials and administrators. The survey should measure three things: the perception of the nature and extent of corruption in cricket, the degree of support for the fight against corruption in the game and finally personal attitudes to corruption. While the survey should be carried out independently of the ICC, the ACSU should, in consultation with the other departments, specify the subject of the questions to be put. The results should be given appropriate publicity.

It is now necessary that the ACSU should systematically and formally process allegations of misconduct. The ICC must show that it takes complaints about corruption seriously. It should first decide its investigation policy. The policy should be that the ICC will address every allegation of corruption that can be investigated. There are good reasons for adopting that policy:

- a) What appears to be a minor matter quite often unravels into a much more serious case.
- b) For the person who has brought himself to make a complaint, the matter will be important. If it is dismissed as unimportant, he is unlikely ever to return to the authorities, perhaps with a crucial piece of information. If the cricketing community's support is to be won, the minor matter must be taken seriously.
- c) Picking and choosing which reports to investigate and which to ignore gives rise to suspicion of improper influence having affected the decision.
- d) Ignoring some complaints gives the impression that some corruption is tolerated, that double standards apply.
- e) The fact is that widespread small-scale corruption does serious damage to the wellbeing of the game. Furthermore, a single small act

of corruption can have disastrous consequences; instances come readily to mind in the field of security.

It is recommended that the ICC adopt a policy that requires the ACSU to address every allegation of corruption that can be investigated.

The consequence of adopting a policy of addressing all reports capable of investigation is that the investigating arm of the ACSU is demand led; its workload will depend on the number of reports received. Furthermore, investigating corruption is labour intensive. These two factors have implications for resource requirements. Experience in other anticorruption domains shows that, although the educational and preventive aspects of the work are as important as the enforcement aspect, it is the enforcement aspect that requires more resources. Inevitably the ACSU needs to spend more of its resources on investigations than on prevention and education. That does not mean that the latter are any the less necessary in tackling the problem. All three are equally necessary. They are interdependent and success in any one of them enhances the other two.

Of course, the amount of resources put into investigating what is indeed a minor matter will be small in comparison to the resources put into investigating a major matter. What is important is that in both cases the cricketing community should feel the investigation has been properly done.

A policy of investigating allegations should mean that the ACSU does not initiate investigations from its own intelligence resources. As its intelligence database develops, the unit will be able to initiate an investigation from the intelligence it has accumulated about an individual. It must resist the temptation to do so. It must stick to its policy of investigating an individual only when an allegation against him has been received, and it must make that policy as widely known as possible. It must be seen to be responsive. Otherwise the unit will be accused of picking on an individual for the wrong reasons. If that perception spreads, trust in the ACSU's impartiality and independence will be lost. Without that trust, the support of constituents cannot be developed or retained. The ICC cannot overcome the problem of corruption without the support of its constituents. It is recommended that 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.

The processing of allegations of breaches of the codes of conduct applicable to cricket requires a continuing, daily analysis of the information received by the unit. Currently the Information Manager uses the information mainly to build up the intelligence database. The investigation of allegations requires the information to be classified and collated systematically. The compilation of the statistical picture requires a similar classification and collation. The services of a qualified and experienced analyst are now needed. It is recommended that a qualified analyst be appointed to the ACSU.

The administration of the game requires the ICC to make appointments to permanent and consultancy posts. Many of these appointments are made from the world of cricket. It should be a function of the ACSU to provide to the appointing authority an integrity rating on the candidate for appointment or promotion. A simple ABC classification would indicate that nothing adverse was known about the candidate, or that some doubt existed about his integrity, or that he presented a serious risk to the integrity of the post. The appointing authority should be required to obtain such a rating from the ACSU before making the appointment or promotion. It is recommended that the appointing authority of the ICC be required to obtain an integrity rating from the ACSU before making any staff appointment or promotion.

Some cricketing countries have introduced an accreditation system for agents who represent players. Accreditation is required before an agent can negotiate with the cricket authorities on behalf of his client. The system allows accreditation to be withheld or withdrawn in the event of serious doubt about the agent's integrity. It is recommended that the ICC, with the involvement of the ACSU and Member boards, introduce an accreditation system for agents of international players.

Cricket administrators and player representatives have long discussed the use of polygraphs or lie-detectors as an indication of the integrity of those submitting to a test. Opinion of its value is divided, the majority apparently opposing its use on the grounds of inaccuracy, unreliability, illegality and

inadmissibility in evidence.⁵ The scientific community is unconvinced about its reliability. While its introduction might act as a deterrent initially, its validity and admissibility would be unlikely to withstand legal challenge. For these reasons it is recommended that the ICC should not introduce or support the use of the polygraph until its validity and admissibility have been accepted by the courts.

CAPACITY AND STRUCTURE OF ACSU IN TERMS OF NUMBERS OF UNIT MEMBERS DEPLOYED AND THEIR BASE OF EXPERIENCE AND EXPERTISE

It is clear that the ACSU has a wealth of police investigative experience. It always has had. That experience has stood the unit in good stead and should continue. As previously pointed out, the investigation of corruption requires more manpower than does prevention and education. Furthermore, for the reasons already explained, every pursuable allegation of corruption must be investigated. This aspect of the ICC's anticorruption strategy is therefore demand led. In addition, the growth in demand for the ICC's anticorruption and security services on the subcontinent will almost inevitably lead to more allegations against international players. It is recommended that the ICC should be ready to increase the number of investigators employed in the ACSU if the number of pursuable allegations rises.

The planning, management and deployment of resources for anticorruption and security functions at ICC events rests with the ACSU's General Manager, as does the management of all the other functions of the unit. The growth in the demand for the unit's services on the subcontinent together with the televising there of games from other parts of the world will have to result in an increase in full-time and part-time personnel answerable to the General Manager. His span of control can be expected to become too large to be effective. It is time to consider increasing the management component of the ACSU. Perhaps the division of labour should lie between ICC events and non-ICC events. It is recommended that the ICC increase the management capacity of the ACSU.

It must be said that the nature and extent of the corruption problem facing the administrators of the game is difficult to assess. Anecdotal evidence abounds

⁵ Unreliability arising from the nervousness of the person being tested seems to be borne out by recent medical research in Britain on the unreliability of diagnosis for cardio-vascular conditions arising from the patient's nervous reaction to ECG equipment.

but the statistical picture is not readily available. The need for methodical analysis of the reports being received by the unit has been mentioned earlier. It was there recommended that a qualified analyst should join the team.

Investigators have a valuable part to play in conveying the anticorruption message, but it must be recognised that investigators are not normally specialists in the techniques of conveying the message. Nor do they usually have playing experience as cricketers of a sufficiently high standard. Given the importance of getting the message across to those cricketers who most need it and whose mother tongue may not be English, the difficulty of getting and retaining their attention should be addressed by a communicator experienced in the techniques of conveying the anticorruption message and who understands the problems and temptations faced by cricketers. The point to be kept in mind is that investigative experience alone does not provide the best foundation for conveying the anticorruption message. It may not be easy to find a person who fits the desired profile but it is recommended that the recruitment of a communicator with suitable experience as a cricketer should be started without delay.

The system of having Regional Security Managers covering ICC matches and events appears to be working satisfactorily. The instigation of the secure Players and Match Officials Area at matches and events has made a very considerable difference to access to the players and their entourage and has reduced the risk of conveying bet-sensitive information. The extent of the information-gathering role of the RSMs is more difficult to assess in the absence of statistics, but there is no doubt about the value of that information. It is clear that at times the five RSMs have more than enough to cope with. Their workload has recently grown substantially by the ICC's provision of their services for non-ICC events such as the Indian Premier League. The increased workload, the value of the service to the ICC in terms of corruption prevention and revenue earning, and the importance of the ACSU's role as the 'eyes and ears' of the ICC in fighting corruption justify a substantial increase in the number of RSMs. There is advantage in having two RSM's deployed at more vulnerable games. It is recommended that a further five RSMs should be engaged on a part-time basis.

APPROPRIATENESS OF THE ACSU'S POSITION IN THE ORGANISATIONAL STRUCTURE OF THE ICC

Until the end of May 2011 the ICC internal organisation chart shows the ACSU as one of the ICC's six departments. Thereafter the ACSU appears as one of eight departments. As mentioned earlier, the ACSU is grouped with 'Anti-doping' under the heading 'Integrity Unit'. The distinction that has developed recently between corruption concerning the playing of the game and corruption in the administration of the game has been commented on earlier and the recommendation made that this operational distinction should be reconsidered.

Here it is the ACSU's position in the organisational structure of the ICC that needs considering. The independence, impartiality and operational autonomy of the unit is a crucial features of its effectiveness. In those features it has many similarities with the vigilance function of the Internal Auditor.

The current terms of reference of the ACSU place the unit under the direction or influence of both the Code of Conduct Commission and the Chief Executive.⁶

The ACSU's operational autonomy should be improved in two respects.

First, it should not be the responsibility of the CEO to direct or influence the ACSU's operations or investigations. But the ACSU should keep the CEO properly and regularly informed. The dotted line of accountability shown on the organisation chart from the Internal Auditor to the CEO illustrates the point. Only for administrative purposes should the ACSU be subject to the direction of the CEO and the President and be answerable to them.

Second, the ACSU should not be subject to the control of the Code of Conduct Commission. As matters stand, it appears that the ACSU can investigate only when authorised to do so by the Commission.⁷ The Commission's role has evolved into one of disciplinary adjudication. As the adjudication body it should not be involved in directing or authorising the functions of the unit.

⁶ See for example articles 3.2(a), 3.2(e), 3.4, 4.2 and 5.5 of the ACSU's Terms of Reference. It is said that the ACSU has in reality operated autonomously. There is nothing to suggest that it has been subjected to any improper influence.

⁷ See para 3.2(a) of the ACSU's Terms of Reference.

It is recommended that 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.

It is further recommended that the evolved role of the Code of Conduct Commission as an adjudicating tribunal should be formalised.

In consequence the terms of reference of the ACSU should be revised.

APPROPRIATENESS AND EFFECTIVENESS OF ACSU'S INTERACTION AND RELATIONSHIPS WITH MEMBER BOARDS AND EXTERNAL STAKEHOLDERS

The ACSU's terms of reference make clear that it is the responsibility of the unit to assist Members with all aspects of fighting corruption in the game.⁸ Conversely the unit may require the assistance of Members.

As an essential part of the ICC's functions, the ACSU's ability to act depends entirely on the ICC's authority granted by its Members. Of course, the ACSU does not have usual police powers of investigation nor does the ICC have state powers of coercion. Its authority over players, player support personnel, match officials, staff and Members rests on eligibility, rule-making, contract and consent. Its codes of conduct provide the regulatory framework. The Executive Board, comprising Member representatives, periodically review and amend the codes on consideration of draft changes proposed by ICC committees. The Chairman of the ACSU regularly gives an oral report to the Executive Board. This interaction between the Executive Board as the rule-making authority and the ACSU as the unit responsible for conveying the anticorruption message of the rules and for investigating alleged breaches of the anticorruption aspects of those rules is a satisfactory arrangement and should continue. It is recommended that 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 associations and the media.

The unit has developed close relations with Members and regularly provides them with intelligence reports. The Information Manager coordinates the entire intelligence gathering operation and its dissemination to Members and other stakeholders. The development of this service is essential and should

⁸ See para 5.1 of the ACSU's Terms of Reference.

continue, as is the development of operational contacts with Members and national investigative authorities. The ACSU personnel should however safeguard the identity of its sources of information for the reasons explained earlier. Only where the source is prepared to give evidence and be identified should his identity be revealed.⁹ It is recommended that the ACSU's operating practice should be formalised so as never to reveal the identity of its source of information except when the source is willing to testify.

The ACSU's relations with the media have an important bearing on the public's perception of the ICC's stance against corruption. It is therefore necessary that the ACSU and the Media and Communications Unit should develop a close professional relationship. The educational side of the ACSU's work largely depends on it, but the media need to be brought to understand that the ICC does not provide information or comment on particular investigative matters. It should do so only when a matter has clearly reached the public domain and then only to publicise a disciplinary finding or to confirm or deny a matter where not to do so would reflect adversely on the ICC. Otherwise the standard response to media inquiries on investigative matters should be neither to confirm nor deny. It is recommended that the ACSU should not normally comment on any particular investigative matter.¹⁰

CONCLUDING REMARKS

The terms of reference for this review have limited the review to the capacity and capability of the anti-corruption dimension of the ACSU, primarily in respect of the appropriateness and effectiveness of the "ICC Anti-Corruption Code for Players and Player Support Personnel". But it is clear from the unit's own terms of reference that its anticorruption remit is wider.¹¹ Indeed the later items of the terms of reference for this review require consideration of the ACSU's position in the ICC's organisational structure, and its relationship with other departments of the ICC, Member Boards and external stakeholders.

⁹ This is said to be actual practice. It is well to the good and should be formalised.

¹⁰ The ACSU says that this paragraph reflects its current policy. In that case, it should be made a standing instruction for the unit.

¹¹ 'To assist the ICC Code of Conduct Commission ('the Commission') and the Members of ICC in the eradication of conduct of a corrupt nature prejudicial to the interests of the game of cricket; and to provide a professional, permanent and secure infrastructure to act as a long term deterrent to conduct of a corrupt nature prejudicial to the interests of the game of cricket.'

Such a review requires a wider consideration than a focus on only the player and player support personnel aspect of fighting corruption in cricket. That is why the recommendations contained in the review seek to address the dangers in all aspects of the game and its administration. They are not limited to the players and their entourage.

The foundations of the ICC's drive to tackle corruption in the game have been well laid. The ACSU has a central role in that endeavour. The recommendations made here are intended to refine, strengthen and rationalise the measures needed to guard against the threat.

ACKNOWLEDGEMENTS

This report has required the consultant to learn a great deal about the problem of corruption affecting the game and confronting the ICC. He could not have acquired the knowledge he needed without the extensive and generous help of the staff of the ICC, especially of the ACSU. He is deeply grateful to all those with whom he dealt.

In addition he received invaluable help from a number of institutions and individuals outside the ICC. Their candid views provided different perspectives and increased his understanding of the difficulties facing the guardians of the game's integrity. He thanks them for the time they gave him and is pleased to acknowledge his indebtedness.

He is also grateful for the comments he received from the ICC that enabled him to make some clarifications and minor corrections.



Bertrand de Speville

London

30 August 2011

and Maseru

21 January 2012



Schedule 2

Terms of Reference

The Terms of Reference for the review and audit of the capacity and capability of the anti-corruption dimension of ACSU are as follows:

1. To examine and report on the appropriateness and effectiveness of the "ICC Anti-Corruption Code for Players and Player Support Personnel" and to make recommendations for suggested changes thereto.
2. To examine and report on the appropriateness and effectiveness of ACSU's basic method of operation in the context of its four main workstreams – Education; Vigilance; Intelligence; Investigation – and to make recommendations for suggested changes thereto.
3. To examine and report on the capacity and structure of ACSU in terms of numbers of Unit members deployed and their base of experience and expertise and to make recommendations for suggested changes thereto.
4. To examine and report on the appropriateness of where ACSU sits in the overall ICC structure and to recommend any changes which might enhance even further the Unit's interoperability with colleagues within other departments of the ICC. While examination of the security remit of ACSU is not within the scope of the Review, it may be appropriate to comment on how the separate remits – Integrity and Security – impact upon each other.
5. To examine and report on the appropriateness and effectiveness of ACSU's interaction and relationships with Member Boards and external stakeholders (including law enforcement agencies, gaming bodies and similar units in other international sports governing bodies) and to make recommendations for suggested changes thereto.

MEETINGS

ANNEX 2

Friday 25 March

Sir Ronald Flanagan – Head of the ICC Anti-Corruption and Security Unit

Saturday 28 May

Sir Ronald Flanagan by telephone

Tuesday 7 June

Mr Ravi Sawani – formerly General Manager and Chief Investigator, ICC ACSU

Mr Y P Singh - General Manager and Chief Investigator, ICC ACSU

Mr Martin Vertigen – Information Manager, ICC ACSU

Mr Haroon Lorgat – Chief Executive, ICC

Mr Faisal Hasnain –Chief Financial Officer, ICC

Wednesday 8 June

Mr Ravi Sawani

Mr David Richardson – General Manager, Cricket Operations, ICC

Mr David Becker - Head of Legal, ICC

Mr Martin Vertigen; Mr Alan Peacock – Senior Investigator, ICC ACSU

Mr David Becker; Mr Iain Higgins – Company Lawyer, ICC

Saturday 11 June

Mr Arrie de Beer – Regional Security Manager Africa, ICC ACSU

Tuesday 14 June

Lord Condon – Former Chairman, ICC ACSU



Friday 17 June

Mr Michael Beloff QC – Chairman, ICC Disciplinary Tribunal on allegations against 3 Pakistani cricketers 2010

Monday 20 June

Ms Lorraine D'Souza – Administration Officer, ACSU, ICC

Mr David Richardson

Mr Alan Peacock

Mr Campbell Jamieson – General Manager (Commercial), ICC

Mr Alan Peacock

Mr David Becker; Mr Iain Higgins

Tuesday 21 June

Mr Varinder Kohli Singh – Internal Auditor, ICC

Ms Supriya Kamat Banerjee – Manager, HR and Administration, ICC

Sir Ronald Flanagan

Ms Lorraine D'Souza

Mr David Becker; Mr Sean M Cleary – ICC Ethics Officer designate

Mr Haroon Lorgat

Wednesday 22 June

Mr Jeff Rees – formerly ACSU General Manager and Chief Investigator, Director of Integrity, International Tennis Federation

Tuesday 9 August

Mr David Morgan – former Chairman, ICC and former Chairman, ECB

Monday 22 August

Mr Scyld Berry – Cricket Correspondent, UK Sunday Telegraph



Review of the ICC's anticorruption arrangements

Mr Keith Bradshaw – Secretary & Chief Executive, MCC; Mr John Stephenson – Assistant Secretary, Cricket & Estates, MCC; Mr Fraser Stewart, Laws & Universities Manager, MCC

Wednesday 24 August

Mr Ravi Sawani; Mr Y P Singh

CONSULTATION BY CORRESPONDENCE OR TELEPHONE

Mr J Sutherland – Chief Executive, Cricket Australia

Mr Manzur Ahmad – Chief Executive, Bangladesh Cricket Board

Mr D Collier – Chief Executive, England and Wales Cricket Board

Mr N Srinivasan – Chief Executive, Board of Control for Cricket in India

Mr J Vaughan – Chief Executive, New Zealand Cricket

Mr S Ahmed – Chief Executive, Pakistan Cricket Board

Mr G Majola – Chief Executive, Cricket South Africa

Mr Prakash Schaffter – Chief Executive, Sri Lanka Cricket

Mr E Hilaire – Chief Executive, West Indies Cricket Board

Mr O Bvute – Chief Executive, Zimbabwe Cricket

Mr Keith Bradshaw - Secretary & Chief Executive, Marylebone Cricket Club

Mr Tim May – Secretary, Federation of International Cricketers Associations

DOCUMENTS CONSIDERED

ANNEX 4

Report on Corruption in International Cricket, April 2001 – Sir Paul Condon
QPM, Director, Anti-Corruption Unit, ICC

ICC's Minimum Standards for Players and Match Officials' Areas at
International Matches

ICC's Players and Match Officials Area –Minimum Standards, effective July
2006

Draft ICC ACSU Regional Security Manager Checklist

ICC Code of Conduct for Players and Player Support Personnel

ICC Anti-Corruption Code for Players and Player Support Personnel

ICC Anti-Racism Code for Players and Player Support Personnel

ICC ACSU's Advice Card for Players and Player Support Personnel

ICC Anti-Doping Code

ICC Code of Ethics June 2005

Memo dated July 2008 to all ICC Directors and members of staff from Ethics
Officer

Matches during 2011 covered by ICC

2011 FICA Player Survey and Executive Summary

Introductory Comments by Sir Ronnie Flanagan, Chairman, ICC ACSU -
International Centre For Sports Security, Doha Conference February 2011

ICC Anti-Corruption and Security Unit Terms of Reference

Tribunal Determination: ICC v Butt, Asif and Amir, 5 February 2011

Examples of team attendance sheets at talks and video showings by ACSU
officers

ACSU Advice Card for Players and Player Support Personnel, February 2010 and
January 2011

Review of the ICC's anticorruption arrangements

Examples of media coverage of England v Pakistan Test match, Lords 2010

Sundry correspondence concerning allegations arising from England v Pakistan Test match, Lords 2010 and consequent negative commercial impact

ICC Organisation Charts November 2010 and May 2011

ACSU Budget 2011

ICC Code of Conduct Commission Terms of Reference

ICC Annual Report 2009-2010 including Financial Statements

Guidance and Information for Board Members

ACSU Gifts Register

ACSU Presentational Report to ICC Executive Board, 2009

ACSU Presentational Report to ICC Executive Board, 12 October 2010

ACSU General Review and Annual Report 2004, 2005, 2006, 2007, 2008-09, 2009-10

List and organisation chart of ICC Boards and Committees

Draft Code of Ethics for the ICC proposed for adoption in June 2011

Sundry ACSU statistics

Organisation chart of ICC Corporate Structure

ICC Summary Income and Expenditure statement for May 2011

ICC Directors Induction materials

Summary of the Nolan's Committee's First Report on Standards in Public Life

ICC draft Employment Contract

ICC Strategic Plan 2011-2015

MCC World Cricket Committee – Anti-Corruption Working Party minutes, July 2011



Review of the ICC's anticorruption arrangements

ICC Headquarters Organisation Chart (undated)

PROVISIONS DRAFTED

[The offence of soliciting or accepting unauthorised gifts should apply not only to players, player support personnel and match officials but also to the ICC representatives of members, associate members and affiliated members and to staff of the ICC.]

Gifts

- (1) A person to whom any of the ICC codes of conduct applies or who is engaged as an ICC representative of a member, associate member or affiliated member or by the ICC may not solicit or accept any gift or other advantage unless he has the general or specific permission of the ICC to do so.
- (2) The ICC may give general permission to accept certain kinds or categories of gifts or advantage by notice sent to all members, associate members and affiliated members and professional players associations and by posting the notice on its website.
- (3) Where a person to whom this section applies is unsure whether general permission has been given, he is required to seek specific permission.

[The offence of unexplained wealth should apply not only to players, player support personnel and match officials but also to the staff of the ICC.]

Unexplained wealth

- (1) Any person to whom any of the ICC codes of conduct applies or has applied, except the Member representatives of the Executive Board, or who is engaged by the ICC and who –
 - a) has a standard of living incommensurate with his present or past official emoluments; or
 - b) is in control of wealth disproportionate to his present or past official emoluments,

is in breach of this code unless he gives to [a tribunal established by the ICC Code of Conduct Commission for the purpose] a satisfactory explanation of how he is able to have such a standard of living or how such wealth came under his control.

(2) Where a tribunal is satisfied in proceedings for a breach under subsection (1)(b) that, having regard to the closeness of his relationship to the person charged with the breach and to other circumstances, there is reason to believe that any person is or was holding wealth in trust for or otherwise on behalf of the person charged or acquired such wealth as a gift from the person charged, such wealth shall, in the absence of evidence to the contrary, be presumed to be or have been in the control of the person charged.

(3) In this section, "official emoluments" means the earnings payable under terms of engagement as a player or player support person or by the ICC and includes a pension or gratuity payable under such terms of engagement.

INDEX OF RECOMMENDATIONS

Page	Recommendation
8	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.
9	2. 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.
10	3. The minimum periods of ineligibility should be omitted.
10	4. 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.
11	5. Information conveyed by the ACSU to a third party should not include the identity of the original source.
11	6. Any leak of confidential information should be traced and remedied.
11	7. The separate treatment of corruption in the playing and administration of the game should be reconsidered.
12	8. The decision to bring disciplinary proceedings should be taken by the prosecutor, whether internal or external.
12	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.
12	10. The progress made by the ICC in reducing corruption in cricket should be measured at regular intervals.
12	11. The ACSU should routinely collate and produce statistics of the allegations and information it receives.
13	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.
14	13. The ICC should adopt a policy that requires the ACSU to address every allegation of corruption that can be investigated.

14	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.
15	15. A qualified analyst should be appointed to the ACSU.
15	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.
15	17. The ICC with the involvement of the ACSU and Member boards should introduce an accreditation system for agents of international players.
16	18. The ICC should not introduce or support the use of the polygraph until its validity and admissibility have been accepted by the courts.
16	19. The ICC should be ready to increase the number of investigators employed in the ACSU if the number of pursuable allegations rises.
16	20. The ICC should increase the management capacity of the ACSU.
17	21. The recruitment of a communicator with suitable experience as a cricketer should be started without delay.
17	22. A further five RSMs should be engaged on a part-time basis.
19	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.
19	24. The evolved role of the Code of Conduct Commission as an adjudicating tribunal should be formalised.
19	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 associations and the media.
20	26. The ACSU's operating practice should be formalised so as never to reveal the identity of its source of information except when the source is willing to testify.
20	27. The ACSU should not normally comment on any particular investigative matter.