

SYNDICATE CODE OF CONDUCT

SYNDICATE CODE

1. This Code applies to all Syndicates where:
 - 1.1 the Syndicator is paid for their role; or
 - 1.2 the method of attracting participation in the Syndicate includes invitations to the public.

Contract

2. The Syndicator and each Syndicate member must enter into a written contract when each Syndicate member joins the Syndicate.
3. If there is more than one Syndicate member, each written contract must be substantially the same.
4. Each contract must contain the following:
 - 4.1 a clause that acknowledges that participation in the Syndicate is for enjoyment and does not guarantee a financial return;
 - 4.2 a clause acknowledging that the Syndicate members will be subject to, and regulated by, certain provisions of the Rules of Rules of Racing for the duration of the Syndicate with explicit reference to the following Chapters (which may be subject to change from time to time on notice by the BHA to the Syndicator): (J) Integrity and (L) BHA Investigations and Disciplinary Action;
 - 4.3 the duration of the Syndicate;
 - 4.4 how and when the Syndicate will come to an end;
 - 4.5 The intended plans for any horse(s) should they be retired while owned by the Syndicate;
 - 4.6 if applicable, how members may leave the Syndicate before it comes to an end;
 - 4.7 the ownership details of each horse registered to the Syndicate, including whether it is wholly owned by the Syndicate or whether it is subject to a Lease;
 - 4.8 the proportionate interest in the Syndicate of each member and any rights each member has to sell, lease, transfer or assign their share;
 - 4.9 If bought at public auction, the sale price of the horse(s) and all associated purchase costs to be passed on to members. If bought privately the cost of acquiring the horse(s) to be passed on to members;
 - 4.10 the participation costs for each Syndicate member, including whether such cost is fixed or variable and, where relevant, the consequences of any non-payment (drawing attention to paragraphs 5-8 below);
 - 4.11 details of any remuneration paid to the Syndicator and any third parties, including how it is calculated and the method(s) of payment;
 - 4.12 the name(s) in which the Syndicate bank account is held and the signatories to that account;
 - 4.13 an obligation to provide a full financial statement for the Syndicate and the process by which any financial surplus or deficit will be credited or charged to the participants;

- 4.14 the time at which and procedure by which the statement(s) of the Syndicate's costs recovered and expenditure will be presented to the members, including the details about any applicable VAT and how prize and appearance money won by the Syndicate will be treated;
- 4.15 the insurance details for each horse, including whether the members are beneficiaries;
- 4.16 details of the Trainer(s);
- 4.17 the Syndicate decision making process relating to the management, training and time and sale of the horse(s); and,
- 4.18 what process should be followed in the case of a dispute between the Syndicator and a member.

Payment

- 5. A Syndicate member must pay any amount payable under the Syndicate contract (paragraph 2) within 3 months of being requested to do so.
- 6. A Syndicator may report a Syndicate member that fails to comply with paragraph 5 to the BHA through the submission of a non-payment report. A non-payment report must be:
 - 6.1 made in writing and signed by the Syndicator(s);
 - 6.2 include at least the following:
 - 6.2.1 The Syndicate member's name and address;
 - 6.2.2 Details of the debt;
 - 6.2.3 The date that request for payment was made;
 - 6.2.4 A signed copy of the Syndicate contract which includes all terms outlined in paragraph 4;
 - 6.3 be accompanied by a copy of the unpaid invoice; and
 - 6.4 sent no later than 15 months after the sum became payable.
- 7. A Syndicator must not submit an unjustified or frivolous non-payment report.
- 8. If a Syndicate member cannot provide the BHA with a good explanation for the late payment, they may be added to the Forfeit List.

N.B. All Syndicates registered on or after 1st May 2021 must ensure they comply with this Code of Conduct. All Syndicates registered prior to this date must ensure they are in compliance with the [previous Code of Conduct](#), and that their contracts are updated to reflect this new code no later than 30th April 2022.

FREQUENTLY ASKED QUESTIONS

INTRODUCTION

1. What is the purpose/scope of this Code?

The Code is a response to the increasing prominence of syndication and a desire to improve the protection and information for participants involved in Syndicates. The BHA, with the full support of the ROA, has introduced a Syndicate Code of Conduct for individuals who manage, administer or promote these arrangements. The Code of Conduct will help to ensure that there is a greater transparency in how these arrangements operate and provide clarification and protection for participants.

The Code will apply to any ownership arrangement which is registered as a Syndicate and meets certain criteria, as outlined in paragraph 1.

The Code does not seek to stipulate how any Syndicate should be run, save that it should meet the terms of the Code. The BHA has not sought to interfere with the commercial business of any Syndicate and is only looking to ensure that the arrangement between the Syndicator and members is clear and understood by all parties.

2. Who should I contact if I think there has been a breach?

If any participant believes the Syndicator is in breach of the Code, or is concerned with their practice, they should contact the BHA via ownership@britishhorseracing.com.

GENERAL POINTS

3. How do I know if I'm covered/required to comply?

All ownership entities that are registered as a Syndicate with the BHA and are:

- a.) managed by a Syndicator who receives payment in relation to their role *or*
- b.) were formed through a public offering,

are required to comply with the Code.

4. Who is the Syndicator?

The Syndicator is the person registered with the BHA who assumes responsibility for the Syndicate under the Rules. The Syndicator will be the person who manages, promotes and/or administered the Syndicate. There must be a *minimum* of one Syndicator for each Syndicate.

5. What constitutes a public offering?

For the purpose of the Code, a public offering is the offer of membership to the general public. This is most commonly done by the Syndicator, but it can be administered by someone else connected to the Syndicate. The most usual ways to offer membership to the public would be through a website or an advert.

6. How do I know if m arrangement is a Syndicate or a Racing Club/Partnership?

Fundamentally members of a Syndicate share the ownership the horse(s), while members of a club enjoy some of the benefits of being a racehorse owner, except they do not have any ownership rights in the horse(s).

While the Code makes provisions for instances where a horse may be leased, it is normally the case that in a Syndicate you will purchase a share in a horse, while in a Racing Club you often pay a subscription fee.

In a Partnership all members are registered owners and it is often a small group of friends and family. It is unlikely there will have been a public offering made.

To clarify how a specific ownership is registered please contact the Syndicator/Club Manager or alternatively the Weatherbys Registrations Team on 01933 440 077.

7. Who is responsible for ensuring that the Syndicate adheres to the Code?

It is the Syndicator's responsibility to ensure that the Syndicate always complies with the Code.

CONTRACT

8. What form does the contract need to take?

Each member must enter a contract with the Syndicator as stipulated in the Code. This need not be a hard copy contract and instead can be done online – the member would simply need to actively accept the offer of ownership which would need to include all terms outlined in paragraph 4.

9. Why should the contract stipulate that the involvement in the Syndicate is solely for enjoyment?

In the vast majority of cases racehorse owners recover only a small percentage of their costs over the course of a year and, therefore, references to terms such as "investment", which can be inferred to mean that a financial return is likely, are potentially misleading.

In addition, by clearly stating that Syndicate ownership is for enjoyment, it helps to prevent the Syndicator inadvertently advising on, or arranging, investments which might otherwise only be permitted if regulated under the Financial Services and Markets Act 2000.

10. What information is required in relation to how a Syndicate Member may leave the Syndicate?

Within the contract it should be clearly detailed whether a Syndicate member can leave the Syndicate before final termination. In the instance that there is an option for the Syndicate member to leave, it should be outlined how they would go about doing this and also the repercussions of their decision (either financially or otherwise) both on themselves and, where relevant, the remaining Syndicate members.

11. What information is required if the horse is leased?

In the instance that the Syndicated horse is leased, this must be made clear to all participants from the outset. It is advised that within the contract both the lessor and lessee are stated as well as any relevant terms of the lease.

12. What information on the Syndicate's finances should be presented to the members; what constitutes a full financial statement?

What constitutes a full financial statement will depend on how the Syndicate is organised. In the instance that members of the Syndicate are charged based on the costs arising and, at the end of the Syndicate term members are required to meet any deficit or will be owed any surplus, the Syndicator should detail both the heads of income and expenditure to participants.

The statement should promote financial clarity, and as such, should reference all costs including any commission or premiums paid.

In the instance that the Syndicate model involves members being charged a set fee up front and, irrespective of the cost arising, members will not be required to pay anything more, the Syndicator would not necessarily be expected to detail their heads of expenditure but should properly itemise any income the horse generates (e.g. prize money). This will enable the Syndicate member to clearly identify that they have received the due amount relating to the share percentage held.

Irrespective of the model employed there are certain accounting requirements that are a necessity. For example, if VAT is charged to a Syndicate member, they should be supplied with a VAT invoice carrying the relevant VAT registration number.

In addition, further to any management costs, details should clearly specify any additional sums to be deducted from prize money or the sale of the horse. For the avoidance of doubt, reference should also be made to the named individual(s) who holds the Syndicate bank account.

13. How often should statements of the Syndicate's costs and expenditure be presented to the members?

While there is no specific rule on how often financial statements should be produced, it is suggested that members are kept up to date on a regular basis. At the very least the Syndicator should be supplying members with a full statement at the end of each season.

14. What information is required in relation to the purchase price of the horse(s)?

If bought at public auction, the contract should detail the sale price of the horse(s) and all associated purchase costs to be passed on to members. If bought privately, any cost attached to acquiring the horse(s), which are to be passed on to members, should be listed in the contract. The date on which the horse was purchased/acquired should also be included.

If the cost of purchase/acquisition is different to the value the Syndicator places on the horse the Syndicator may also list what they believe to be the value of the horse. For the avoidance of doubt, this estimate of value should not replace the purchase/acquisition costs in the contract and should be an additional figure.

15. Is the Syndicate eligible to reclaim VAT on racing expenses?

All racehorse owners are potentially eligible to reclaim VAT on their racing expenses. Advice on the Racehorse Owners' VAT Scheme can be found on the HMRC website [here](#).

16. What must be detailed in the contract in relation to insurance?

Any risks the horse(s) is insured against should be stated in the contract. Typical risks against which insurance could be sought include death, injury, theft etc. More specific policies, for example, covering unsoundness of wind, colic surgery or lifesaving surgery can also be taken out and should be stated if applicable.

The beneficiaries of any claim must also be recorded within the contract including the amount the horse is insured for.

17. What detail is required about the horse's retirement?

While it is rarely possible to detail exactly what will happen should a horse owned by the Syndicate be retired, the contract should stipulate the responsibilities of the members upon retirement. This should include any costs and what process the Syndicator will follow to sell or transfer the horse.

18. What detail is required in relation to the decision-making processes of the Syndicate?

The process by which decisions relating to the Syndicate must be laid out clearly in the contract. This should include who is responsible for making any decision and also how and when these decisions will be made and communicated.

In the instance that certain decisions, say in relation to the retirement or sale of a horse, are to be made in a different manner, this process should be clearly outlined also.

19. What information relating to a dispute resolution process is required?

The contract should stipulate what the member should do in case of a disagreement with another member or the Syndicator and the process that will be followed.

This may include, for example, a process where 1.) the member complains formally to the Syndicator requesting a response within 21 days 2.) there is then scrutiny of the complaint against the contract and behaviour of the Syndicator, hopefully resolving the

complaint; and then 3.) if it can't be settled, then the complaint should be escalated in line with whatever is stated in the contract.

While the BHA is not able to act as a mediator in the case of a dispute between members and Syndicators, if the member believes the Syndicator has breached the Rules of Racing (including the Syndicate Code of Conduct), this should be reported to the BHA for investigation.

20. In addition to the matters raised in paragraph 4 is there anything else a Syndicator should consider when drafting a contract?

In keeping with the aims of the Code, the Syndicator should not mislead Syndicate members by failing to provide them, within the contract, the information they require to make an informed choice. As such, the Syndicator should not omit material information or provide it in a way that is unclear, ambiguous or in an untimely manner.

The Code does not look to dictate how a Syndicate should be run, but there are certain rules of fairness that should still be adhered to. While fairness is not a rigid requirement, Syndicators are recommended to consult the [Unfair Contract Terms Guidance](#) when drafting their Syndicate contract.

In addition, it is highly likely that members entering into Syndicate agreements as individuals (as opposed to businesses) fall under the definition of “consumers” according to UK consumer protection legislation.

Syndicators are therefore advised to take independent legal advice to ensure that their agreements with members acting in an individual capacity meet the requirements of UK consumer protection legislation. Further general information on UK consumer protection legislation is available both [here](#) and [here](#).

21. What are the penalties for non-compliance with the Code?

A failure to comply with the Code will be used when considering a Syndicator's suitability to continue being registered as a Syndicator or, if considered appropriate, more generally registered, permitted or licensed under the Rules of Racing.

22. What happens if the Syndicator is incapacitated, or a member defaults/dies?

At all times there must be a *minimum* of one Syndicator in place for each Syndicate.

In the instance that a Syndicator is incapacitated and is unable to fulfil their duties and there is not a second Syndicator already attached to the Syndicate, a new Syndicator will need to be registered with the BHA. The process for establishing who the new Syndicator will be should be outlined in the Syndicate contract.

If a Syndicate member defaults/dies the implications (financial or otherwise) for the remaining Syndicate members should be clearly outlined in the contract.

PAYMENT

23. What can happen if a Syndicate member fails to pay an amount payable under the Syndicate contract?

In the instance that a Syndicate member runs up a debt with the Syndicator, the Syndicator can make a non-payment report to the BHA in line with Paragraph 6.

Upon receiving a non-payment report the BHA will contact the Syndicate member and ask for an explanation for the late payment. Should a good explanation not be forthcoming the member may be added to the Forefit list and disqualified under the Rules of Racing.

TRAINER SPECIFIC ISSUES

24. If a trainer manages a Syndicate, but does not receive any additional payment for their role as Syndicator other than normal training fees is that entity required to comply with the Code?

If the entity is registered as a Syndicate, no public offering was made and the trainer is the Syndicator, but does not get paid extra for this role, the Code does not apply.

If, however, the trainer does not receive any remuneration for their role as Syndicator, but does advertise for Syndicate members publicly, the Code does apply.

CLUB MANAGER SPECIFIC ISSUES

25. When does my Syndicate need to comply with the Code of Conduct?

Syndicators are required to ensure that their Syndicate complies with the Code within six months of it being incorporated within the Rules of Racing at the latest. Following that date the Syndicate must always be in compliance.

26. Do we still need a training agreement if we comply with the Code?

In accordance with the Rules, a training agreement between the licensed trainer and the owner remains mandatory and is not superseded by the Code. Instead the Code should sit aside the training agreement to promote the safety of the participants.

27. By adhering to the Code does this represent endorsement of the Syndicate by the BHA?

While there is no restriction on Syndicates telling members they adhere to the Code, this does not represent endorsement of the Syndicate by the BHA.

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