DIGGING DEEPER

A year of scandal and introspection has inspired The Sports Consultancy and Quest to form Global Sports Investigations, a new organisation dedicated to creating robust independent inquiries in sport. The leading figures behind it, including former Metropolitan Police commissioner Lord Stevens, outline why they believe the idea has transformative potential.

By Eoin Connolly

In 2017, it is fair to say, sport realised it needed to take a long, hard look at itself.

Years-long corruption scandals churned on and drew officials linked to world soccer's Fifa and the organisers of Rio 2016 into criminal investigations. Efforts to weaken, undermine and circumvent anti-doping measures were headlined by Russia's apparent campaign to cheat systemically, backed by the state, which finally earned the country's Olympic body an International Olympic Committee (IOC) ban in December.

Allegations of lax drug control, bullying and racism surfaced at British governing bodies, with cyclist Jess Varnish and soccer player Eni Aluko among those voicing concerns as coaches and administrators pushed the limits in a bid to keep the gold medals coming. And perhaps most troublingly, the year began under a cloud of historic child abuse cases across UK sport and ended with the horrifying details of Larry Nassar's prolific sexual assaults on young athletes, most of them minors, while a doctor at Michigan State University and USA Gymnastics.

Set against this, people in industries ranging from politics to the media to Hollywood entertainment felt emboldened to speak out against harassment by powerful figures, while angry calls for public accountability spread into other spheres.

The GSI team: The Sports Consultancy's Ashley Blake and Robert Datnow with Quest's Lord Stevens, Erika O'Leary and Eddie Marshbaum; Lucy Caillé of The Sports Consultancy, not pictured, is also an associate director of GSI

"I think what we have seen is a societal change in the way that athletes, brands and sports are able to communicate through social media and other platforms, more vocally, more quickly, and to a wider community than ever before," says Robert Datnow, co-founder and managing director of The Sports Consultancy, speaking in late December.

"All of that is unprecedented and sport is not immune to that. Where there are grievances, whether it is around selection or anti-doping, or whether it's about allegations of match-fixing, and particularly in this quite sensitive area of child protection, welfare, bullying and harassment, what we've learned about issues outside sport – is that if people have got issues on their mind, they like to get them out in public. And where one person feels safe about putting that in public, others put their hands up and quite rightly say, 'Me, too!'

"Against that backdrop, where that is going on, and in a context where there is more money being made in sport, there is more to gain and more to lose. Where investigations have started in one sport, they proliferate into another sport, and where public funding in sport is under threat and under scrutiny, I think in that environment there is a need for greater transparency and better governance. We now have a governance code, we have duty of care reports, we have the European Parliament looking at whether sport is fit to govern itself and whether it should be externally governed."

In response to this, The Sports Consultancy Legal – the London-based agency's specialist law practice – has joined forces with private investigations firm Quest to form Global Sports Investigations (GSI), a new organisation that aims to provide dedicated consultancy and operational services for inquiries.

"We observed those conditions, that societal change, and we had another key observation which is that where sport has been tasked with investigating and inquiring into some of these issues, sometimes the impulse is to ask a QC or a judge to lead an inquiry, or we found that there is an impulse for police-led investigations," Datnow explains. "There are merits in both, but there are limitations of both approaches. We thought that there is a need to bring both of those skillsets together in order to provide an end-to-end service for the sports community, to resolve disputes, to bring about behavioural change within sport, and to pause and think before these investigations and inquiries start about what the sport and the stakeholders are trying to achieve."

Quest has its own dense background in sport, taking on cases in Formula One and snooker, and for the International Equestrian Federation (FEI) and English soccer's Premier League. Its chairman is Lord Stevens, the hugely experienced former commissioner of London's Metropolitan Police who has also led major British public inquiries into collusion between loyalist paramilitaries and Northern Ireland's security forces, and the death of Princess Diana.

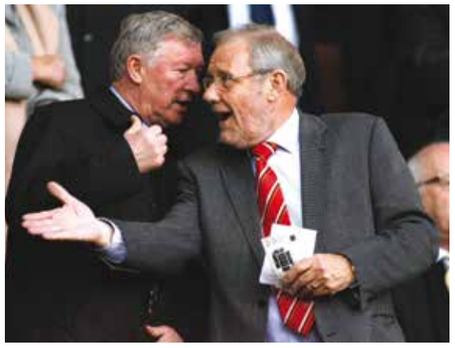
For Lord Stevens, the new venture is built on a fundamental tenet of what makes investigations work, bringing together two core skillsets.

"Best practice," he says, "whether you're doing a murder inquiry or whether you're doing some of the major inquiries I've been leading on which have had international interest, is for the investigator to do the hard work in terms of interviewing people or arresting people on occasions – but this is different in this setting – and then linking into either the director of prosecution, treasury counsel or solicitors.

"There is no other way of doing it. That is best practice in the police and that can be proven over the years. The more important the inquiry, quite frankly, the more you do that."

The GSI project has also been inspired by a weakness in sports administration that has been exposed repeatedly in the past decade – that sport either lacks the specialist knowledge to get its house in order, or it turns to professionals who are too close to take an objective view.

"When we've talked to the global bodies involved in sport," says Datnow, "and we've talked to the national governing bodies, the NGOs, what they say is a common theme is that often, when



Former British MP and sports minister Richard Caborn (right), pictured with ex-Manchester United manager Sir Alex Ferguson

there is an issue to investigate, the commissioning body will turn to the people it knows. It will turn to its lawyers or it will turn to somebody in house, or the internal system that has been set up."

That, Lord Stevens insists, is not good enough.

"This has to be done and it has to be done by independent, credible people," he says. "If it's not, don't do it. Because I think the future of sport is actually on the cusp."

A lack of independence is only one deficiency of many investigations within sport. As Ashley Blake, the head of The Sports Consultancy Legal, explains, many inquiries flounder because those responsible for them fail to set appropriate goals at the outset.

"The thought upfront is: what are you actually trying to achieve?" Blake says. "What are the rules that govern your organisation? What are you able to achieve? What is the budget for the investigation? Looking very, very carefully at the terms of reference to make sure that they are narrow and focused enough to direct you in the right direction with sufficient flexibility for if the evidence leads you in a certain other direction – and not too wide so as to make the investigation run away with itself and costs spiral out of control. There is such an important thought process that needs to happen right from the outset to get to the point where you have meaningful recommendations, and this process is often neglected.

"All of the initial scoping needs input from expert ▶

Picture by: D. Davies/PA Wire/PA Images

Cyclist Jess Varnish and soccer player Eniola Aluko both brought complaints against their respective governing bodies - British Cycling and the Football Association - in 2017

consultants and legal specialists, as well as requiring the input of investigative experts to understand the powers that they have throughout the process."

People matter, too, in inquiries and investigations, and access to the right insights will naturally lead more readily to the right conclusions. "Alongside knowledge of the sport," Blake notes, "it is also incredibly important to have access to the best subject-matter experts – whether you are investigating a child protection issue, athlete welfare issue or anti-doping, you have to have the right expertise on the panel."

As Lord Stevens points out, recalling his time in charge of the Northern Ireland inquiry, it is just as important to be open to informed counsel from elsewhere. "You've got to listen to what's going on and take advice and not be so proud that you will not act on that advice," he says.

Nevertheless, as Blake suggests, by simply getting to the bottom of a scandal or dispute and setting corrective recommendations an organisation is "only really halfway there".

"That's where a lot of the organisations have got tripped up," he says, "because there have been organisations where there's been an outcome of a very thorough investigation – where in some cases millions of pounds has been thrown at it – and those recommendations are never implemented, and the thought hasn't gone into that.

"To think, right from the outset, what are we trying to achieve and how are we going to make meaningful change from this, is critical. So being able to draft any rule changes, advise on structural governance changes within an organisation, create sanctions if necessary, put in place a whistleblowing service or a way of monitoring to ensure that if the issue comes up again, you're able to deal with it. And hopefully the issue won't come up again because you'll have those structures in place."

British MP and GSI consultant Richard Caborn, who became the country's longest-serving sports minister under the last Labour government, echoes those thoughts. For him, properly executing the changes proposed by an investigation is the difference between acting on an inquiry and hiding behind it.

"That's the faultline," he says, "where people have gone forward and haven't taken it to the full. So that end to end is, I think, very important. Because you have crisis management, you get an investigator in and think those are your recommendations. You go from the front page to the back page and you think, well, that's it, guys, it's all dealt with."

Caborn is a strong believer in the example that sport can set. "What happens on the professional pitch on a Saturday happens on the playground on a Monday," he says.

But there are also more tangible incentives for organisations to get their house in order – not least when it comes to retaining the patronage of major brands and broadcasters.

"In the equestrian world, for instance, when we did that the sponsors were thinking of pulling out," Lord Stevens recalls. "Quite frankly, and it was Princess Haya who grabbed it, if you don't get these things sorted out, the sponsors are going to go away – let alone the credibility of the sport."

For national governing bodies in the UK, there is now another imperative. As Eddie Marshbaum, the director of sports integrity at Quest, explains: "On the governance side, we're operating in the context of a new UK sports governance code where if you as a sport do not comply with that, you get no public money."

The new code, published by grassroots funding body Sport England and its elite counterpart UK Sport in October 2016, came into effect last April and includes directives relating to diversity and transparency as well as encouraging the kind of restructuring that is required to face the challenges of the 21st century, not to mention their own vastly increased turnovers. It is an initiative that approaches the fine line between government and sports governance.

Caborn – whose time as sports minister saw work on European troika efforts to get state muscle behind the World Anti-Doping Agency (WADA), without state interference – stresses the importance of independent bodies still ensuring they are on the same side as government partners.

"You're better off trying to set a climate of cooperation – everybody buys into it, and you have this independence and transparency within the structure," he says. "What we're trying to form here with GSI is that independence and the countervailing transparency for organisations to refer their issues to us when they're conflicted for whatever reason. ▶

"Governing bodies and associations are coming under pressure now because governments, and indeed commercial partners and television companies, are coming to them and saying, 'We want a clean product.'"

Getting sports organisations to commit to an idea of self-reflection is one thing, of course, but on a granular level, convincing individuals to contribute fully to an investigation is another challenge. Sport consists of a network of intimacies – from the bonds between teammates to relationships between athletes and coaches to the contracts signed between leagues and sponsors. Breaking into that is crucial to the success of any inquiry.

"In investigations, it's about getting people's confidence so that you can talk to them," says Lord Stevens. "In the equestrian world, we've got a whistleblowing network. People have got to come to you and expose things in a way where they've got the confidence to do it, they are not going to expose themselves and, further, they know that you're going to take them seriously. In these areas, you've got to do that. If you don't do that, you're going to get nowhere."

The other advantage of a GSI-style approach, Datnow says, is that by building end-to-end, context-appropriate processes, it can encourage buy-in from participants on a confidential basis.

He adds: "There is a danger, particularly when you have got public law and public bodies involved, who are subject to Freedom of Information Act requests, that sensitive information will find its way into the public domain and be subject to media scrutiny. One of the roles that GSI investigations and reviews fill is, as it were, independent, discrete, confidential, private law adjudication of disputes."

Viewed from another angle, well-constructed inquiries also provide an appropriate forum for sensitive information that is otherwise still likely find another route to the public.

WADA's investigation into state-sponsored doping finally led to a ban for Russia's Olympic body at the end of last year

"The terms have never changed," says Lord Stevens. "Quite frankly, there are no secrets. People have got to understand that there's no such thing as a secret any longer, in my view – and perhaps there never should be."

Caborn adds: "You've got to be clear with your clients. If you look at the Garcia report [into allegations of corruption in World Cup bidding processes, led by US attorney Michael Garcia], that's an absolutely classic example of this: they thought that they could hide behind Garcia. You can't. And that, in fact, rebounded on Fifa far more than if they hadn't had the Garcia report. It was actually more of an indictment against them than some of the findings that he actually put into the public domain."

Sectors from journalism to policing – at least in the UK – have shown the transformative potential of well-run inquiries, and there are signs of an appetite for change emerging.

"And our experience shows that for more recent pieces of work we've done," Marshbaum adds, "whereas traditionally we might have been asked to do an investigation where we investigate, recommend and then leave the client to do what they want to do with it, that's looking to change now.

"The impression that we're getting from some of our current projects is: 'OK, we've investigated it, but now we want to commission a full investigation on this. We want to follow where the evidence takes us and we want to get to the very bottom of this.' And that's something that I think is quite recent and something that's changed in sport, such that sport may begin to reflect other facets of society and business, whereas previously it may have been a little bit different."

As well as hitting upon a niche in the market, then, the team at GSI hopes it can contribute something of deeper significance.

"Sport is given a very privileged position in society – it's given it in business and it's also in the social structure of life as well – and my view, my feeling in all of this, is to make sure that we can give sport a structured system service that will help them to keep sport clean," Caborn says.

"It's as simple as that, in a very complex world that we're in. It's that, I think, that we're bringing to the party – a very independent investigatory party which we think will match the 21st century governance of sport. We think we've got something that is probably different. It's end to end, it's bringing all of these services together, and it's going to fit in with the type of governance that politicians around the world will be asking of organisations that are spending huge amounts of money.

"So that's what drives me and I think it drives everybody here."