

# **Sport Integrity Review Discussion Document**

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30 October 2018

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# Making a submission

## Tips for submitting

1. There are three ways to submit:
  - fill out the survey which seeks your responses to the questions in the discussion document – the survey allows for anonymous submissions to be made
  - email a submission to [integrityreview@sportnz.org.nz](mailto:integrityreview@sportnz.org.nz)
  - post a submission to:

Sport Integrity Review  
PO Box 2251  
Wellington 6140  
New Zealand
2. When preparing your submission, please:
  - direct your comments to specific questions in the discussion document
  - include as much data and as many specific details as possible to back up your submission.

## Important information for submitters

### Submissions will be subject to the Official Information Act

3. As a Crown entity, information held by Sport NZ is subject to the Official Information Act 1982. Therefore, your submission may be released in part or full under this Act. The Privacy Act 1993 also applies. When making your submission, please state if you have any objections to the release of any information contained in your submission. If so, please identify which parts of your submission you request to be withheld and the grounds under the Official Information Act for doing so (e.g. that it would be likely to unfairly prejudice the commercial position of the person providing the information).

### Submissions may be relevant to other organisations

4. Where appropriate and practicable, Sport NZ may forward some information submitted to another agency. For example, information relating to criminal behaviour may be forwarded to the Police and information relating to doping may be forwarded to Drug Free Sport NZ.
5. Further, Sport NZ cannot guarantee it will investigate any allegations of “sub-criminal” negative behaviour that it receives. However, where appropriate and practicable, we will forward information to the appropriate national sport organisation or other body and signal an expectation they will react appropriately.

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# Introduction

1. New Zealanders like to think we have a reputation for good sporting behaviour – we play hard, but fair. We strive to uphold the values of sport, whether celebrating Olympic gold, or supporting participation. This love of sport provides many benefits for individuals, communities and the nation, and because of that, sport is highly valued.
2. However, the integrity of sport is increasingly threatened both globally and here in New Zealand by issues such as match-fixing, corruption, doping, and abusive behaviour.
3. While New Zealand has various initiatives in place to protect and promote the integrity of sport, the current environment indicates a review is needed to determine whether these measures are enough.

## Evidence of integrity issues

4. Recent international examples of threats to sport integrity are well known and include:
  - widespread, systematic doping in Russia and the use of performance-enhancing drugs by prominent athletes like Lance Armstrong
  - high-profile match-fixing scandals in cricket and tennis
  - allegations of corruption levelled at senior officials at the Fédération Internationale de Football Association (FIFA) and International Olympic Committee (IOC)
  - the prosecution of Larry Nassar, the former doctor of the USA gymnastics team for child sexual abuse, and the subsequent review of USA Gymnastics which revealed an institutionalised culture of physical and emotional abuse.
5. Within New Zealand we have seen evidence of sport integrity issues including:
  - regular examples of poor sideline behaviour from coaches, parents, caregivers and other spectators
  - child sexual abuse conducted by coaches or others involved in sport
  - doping, including the recent cases relating to the Clenbuterol NZ website
  - at least one substantiated match-fixing attempt in sport, with experts warning of real and growing risk in this area.

## Phase one of the review – sector consultation

6. Given the very broad nature of the issues covered, Sport NZ is conducting this review over two phases. Phase one will assess the current environment, identify priority areas where current policies and protections may be insufficient, and gather evidence to support future interventions. Sport NZ is seeking your input to help us draw a full picture of the current sport integrity landscape in New Zealand.
7. Phase two will develop solutions to problems within these identified priority areas. The process for phase two will not be determined until the findings of phase one are known. It is important Sport NZ considers a broad range of areas of sport integrity so we can gauge priorities for focusing resources in phase two.

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8. This document forms an important part of phase one of the review. Sport NZ invites your submissions on the questions posed in this paper to help us understand the nature and size of sport integrity issues in New Zealand.
9. We have broken this down into five key areas:
- **member protection**, i.e. ensuring participation in sport involves no undue risks to mental or physical health
  - **integrity issues in children’s sport**, i.e. ensuring protection from abuse for children given their vulnerabilities, and creating an environment conducive to fostering a lifelong enjoyment of sport
  - **anti-doping**, i.e. the use of prohibited substances and methods in contravention of the World Anti-Doping Code
  - **protecting against corruption**, i.e. fraud, bribery, bid rigging etc.
  - **protecting against match-fixing**, i.e. action to inappropriately predetermine the result of a match, or part of a match, for gambling purposes.
10. The document sets out:
- the current protections against these threats to sport integrity
  - what we know about each of these threats to sport integrity from the international and domestic contexts
  - question prompts for you to answer about these potential threats.
11. This document opens with a chapter examining some overarching themes we found through our preliminary research. It considers organisational culture and the way it can enable sport integrity breaches by failing to identify or protecting perpetrators, discouraging whistleblowers, or normalising poor behaviour. It will also seek feedback on New Zealand’s institutional arrangements for sport integrity, and test if there are any gaps. We encourage you to read it in conjunction with the other chapters that are of interest to you.

## Related reviews

### The Heron Review

12. Readers may be aware Michael Heron QC has conducted a review of Cycling NZ’s high performance programme and parts of its interaction with High Performance Sport NZ. The review undertaken by Michael Heron QC is independent from this discussion document and Sport NZ’s Sport Integrity Review.

### Review into elite athlete rights and welfare

13. Sport NZ will also consider the findings of a broad assessment of elite athlete rights and welfare. There may be links between the findings of the assessment of elite athlete rights and welfare and the findings following the analysis of submissions on this discussion document.

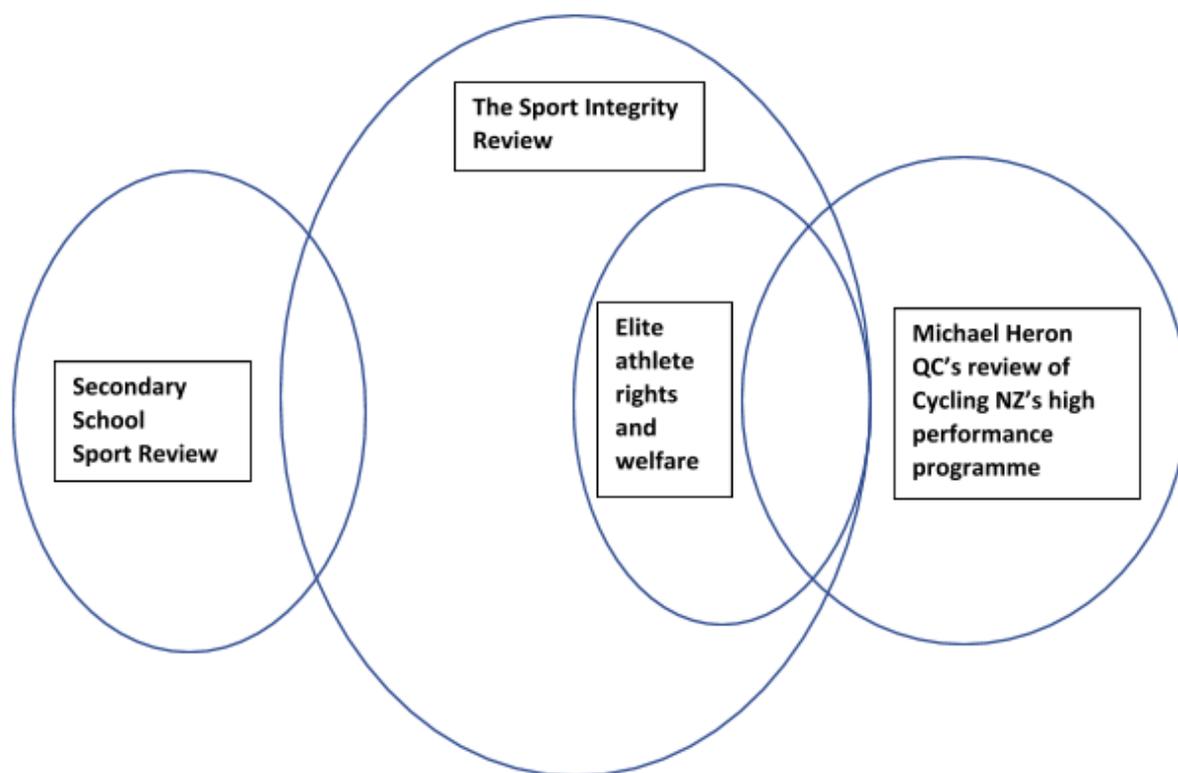
### Secondary school sport

14. The content on secondary school sport in chapter 3 builds on a Sport NZ review of secondary school sport which considered the patterns, barriers and motivations for participation in sport and physical activity by New Zealand teenagers. This did not have a

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specific focus on sport integrity and as such any comments on these areas would also be of interest to Sport NZ.

**Figure 1: The Sport Integrity Review and related work streams**



## Defining sport integrity

15. There is no globally accepted definition of sport integrity. However, the Australian Sports Commission writes:

*“A sport that displays integrity can often be recognised as honest and genuine in its dealings, championing good sportsmanship, providing safe, fair and inclusive environments for all involved. It will be also expected to ‘play by the rules’ that are defined by its code.*

*A sport that generally displays integrity has a level of community confidence, trust and support behind them.”<sup>1</sup>*

16. Therefore, threats to sport integrity:

- undermine confidence in outcomes or events by unfairly skewing the playing field, e.g. through doping, match-fixing or corruption
- discourage participation by creating threats to participants, e.g., through environments that unduly endanger mental or physical health and safety.

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<sup>1</sup> [https://www.ausport.gov.au/supporting/integrity\\_in\\_sport/about/what\\_is\\_sport\\_integrity](https://www.ausport.gov.au/supporting/integrity_in_sport/about/what_is_sport_integrity)

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17. Sport integrity is vital to:

- New Zealand's reputation for being corruption-free
- ensure funds are not diverted away from sport through corrupt means
- maintain public interest in participating in sport and supporting greater diversity of participants (so that the many benefits of sport can be realised)
- maintain public interest in sport, and thereby the commercial viability of sport
- promote fundamental features of sport such as fair play.

18. Sport integrity helps to preserve the value of sport. Sport in New Zealand contributes to happier and healthier people, better connected communities and a stronger New Zealand. For example, Sport NZ research shows:

- 92 percent of New Zealanders believe being active helps keep them physically fit and healthy
- 84 percent believe essential life skills are learned playing sport, e.g. team work and cooperation
- 73 percent agree that sport and physical activity help build vibrant and strong communities
- sports clubs and groups are the most common social group or club for new migrants
- 83 percent believe high performance sport contributes to our national pride and identity.<sup>2</sup>

19. Sport is also important to the New Zealand economy. The sport and recreation sector contributed \$4.9 billion, or 2.3 percent of New Zealand GDP, in 2012/13.<sup>3</sup> If New Zealanders are turned away from sport by integrity issues this economic contribution may decrease.

20. In turn, by promoting involvement in sport, sport integrity contributes to a reduction in physical inactivity. Eliminating physical inactivity would reduce the occurrence of some prominent diseases. The health care cost of physical inactivity to New Zealand was estimated to be at least \$200m in 2013.

## **Why is Sport NZ reviewing New Zealand's approach to sport integrity?**

21. Sport NZ is the lead government agency for sport and physical recreation. It is a Crown entity established by the Sport and Recreation New Zealand Act 2002. Under the Act, Sport NZ's purpose is to "promote, encourage, and support physical recreation and sport in New Zealand". Sport integrity is intrinsically linked to this as breaches can discourage participation. Sport NZ is also responsible for High Performance Sport NZ, a wholly-owned subsidiary of Sport NZ which focusses on the high-performance sport system.

22. Sport NZ believes in the right of everyone to participate in a safe and fair way. Any behaviour that creates a negative experience or has a negative impact on participation or engagement with sport is concerning.

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<sup>2</sup> <https://sportnz.org.nz/assets/Uploads/The-Value-of-Sport-print-ready-booklet-page-by-page-March-2018.pdf>

<sup>3</sup> Dalziel, P. (2015). The Economic Value of Sport and Outdoor Recreation to New Zealand: Updated Data. AERU, Lincoln University.

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# Chapter 1: Organisational culture, whistleblowing and the institutional arrangements for sport integrity

In preparing this document we found a number of themes that cut across the five areas this document considers individually. This chapter considers these cross-cutting matters in four sections:

- the structures and drivers that make the sport sector unique
- the importance of having a culture within sports organisations and sports themselves that does not facilitate sport integrity breaches
- the importance of facilitating speak up culture, whistleblowing and reporting of integrity breaches
- the overall institutional arrangements for sport integrity in New Zealand.

## 1/4: The sport sector has unique structures and drivers

For context, this section notes the characteristics that make the sports sector unique and how these factors create risks for integrity.

1. This review encompasses all organisations that deal with organised sport and all participants in organised sport. For the purposes of this discussion document “sport organisations” means all organisations involved in sport including national sport organisations, regional sport organisations, clubs, regional sports trusts, sports charities, Māori providers of sport programmes and others. Participants can be athletes (including amateur athletes), coaches, parents and caregivers, teachers, support personnel, agents, administrators and others. It includes everyone from paid athletes to unpaid volunteers and weekend warriors. All environments can be vulnerable to inappropriate behaviour.
2. Some of the issues above are faced by all organisations, not just sport organisations. For example, all organisations want to protect against corruption and protect their members from abuse. However, sport organisations at all levels have some unique characteristics that can increase risk in certain areas.

### Sports have traditionally been self-regulating

3. Sports have set their own rules and often deal with their own internal disputes without the involvement of external parties. Given the history of sport as a self-regulating sector, governments have traditionally sought to influence the sector indirectly (e.g. through funding arrangements) rather than directly through regulation.

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## **Sport clubs and governing bodies have traditionally run on volunteer labour**

4. Volunteers are great for sport but a reliance on them can also have the following implications:
- As staff are not paid, sport organisations often focus on the core business of delivering sport. Allocating time to other matters, including integrity matters, is difficult when volunteer sports officials or administrators are balancing day jobs, family commitments and other obligations. Given the voluntary nature of some positions, it may be difficult for sport organisations to attract volunteers with appropriate skills and experience.
  - Sometimes sport organisations need to take any help they get to run parts of their organisations, or events. For example, the Treasurer of a club may not be an experienced accountant but they may be the only person willing to volunteer their time for this task.
  - While volunteers do not earn money, they may earn trust and gratitude from the club. Over time, this can manifest in the form of decreased scrutiny which can potentially lead to sport integrity breaches. Alternatively, volunteers can feel a sense of entitlement which can manifest as a belief that they deserve benefits.
  - Legislation pertaining to “employees” may not always be applicable to volunteers in sport organisations. This means that protections and processes available to employees may not be available to volunteers or members of a sport organisation.

## **Sport organisations can be very hierarchical**

5. Like most organisations, sport organisations have governance and/or management layers. Beyond that, teams have captains, coaches and selectors. Hierarchy can mean breaches of integrity by those at the top are tolerated by those underneath. Athletes may tolerate negative behaviour from senior figures at an organisation in order to remain in favour. For example, an athlete may tolerate bullying from a coach in order to be selected. Selection can directly impact player satisfaction, not to mention level of competition and, at the highest levels, financial reward.
6. Abuses of power can manifest as corruption (theft or embezzlement), member protection issues (e.g. bullying), or in other ways (e.g. pressuring members to use prohibited substances). Those who have power, authority and the ability to influence also play an important role in setting the culture of the organisation.
7. Coaches and other support personnel may train athletes and travel with them without additional supervision. This presents opportunities for breaches of sport integrity.

## **Alcohol use**

8. Alcohol has been a prominent part of socialising within sport organisations and can increase the risk of negative behaviours. According to New Zealand Police statistics, over a third of offences are committed by an offender who has consumed alcohol prior to committing the offence.<sup>4</sup>

*Some of these characteristics are shared by other organisations. However, few non-sport organisations would share all these characteristics.*

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<sup>4</sup> <https://www.alcohol.org.nz/resources-research/facts-and-statistics/nz-statistics/alcohol-and-crime>

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## **We understand organisational capability varies within the sport sector**

9. Sport NZ is acutely aware of the challenges facing sport organisations at all levels. We know sport organisations vary considerably in size, resourcing, capability and membership.
10. A consequence of this vast disparity is that the capacity for addressing challenges to sport integrity is similarly varied. There are many sport integrity policies and guidance documents that sport organisations can draw from to establish their own frameworks for protecting sport integrity. For many sport organisations the challenge is finding the time and resources for considering these documents and ensuring policies are implemented effectively right down to the grass roots.
11. Risk factors also differ across sports. For example, a sport that involves many young participants will rightly focus efforts on child protection policies and procedures.

## **2/4: The culture within organisations and sports is crucial**

This section considers the role that a negative culture within organisations and the sports they aim to deliver can play in protecting or facilitating breaches of sport integrity.

12. Breaches of the rules relating to doping, corruption and children's safety can be motivated by very different things. An athlete who is intentionally doping is trying to succeed on the field, a corrupt administrator may be trying to line their pockets and a person who is a risk to a child has a different motivation altogether. However, despite different motivations, our preliminary research has found organisational culture can play a significant role in enabling sport integrity breaches. It generally does this in one of two ways:
  - by protecting individuals who have breached sport integrity because those individuals are valuable to, or otherwise well-regarded in, an organisation
  - by normalising behaviour contrary to the integrity of sport.
13. Examples of organisational culture contributing to sport integrity breaches abound. Some illustrative examples are provided below.

### **USA Gymnastics had a culture that undermined protection of children**

14. USA Gymnastics is the national governing body for gymnastics in the United States. There are two lines of criticism of the culture at USA Gymnastics:
  - it protected Larry Nassar allowing him to groom and sexually abuse child athletes over many years
  - it fostered a culture of verbal, emotional and physical abuse that hurt child athletes under the guise of hard training.

#### **The Larry Nassar scandal**

15. Dr Larry Nassar was the doctor for the USA Gymnastics team. Over 250 victims have accused him of sexual abuse over a period of decades. He is currently in prison having been convicted of sexual assault.
16. USA gymnast, Aly Raisman has filed a lawsuit alleging that USA Gymnastics and the US Olympic Committee knew, or should have known, about Nassar's behaviour and did not respond appropriately. At least three gymnasts reported Nassar to USA Gymnastics officials. Ultimately the organisation was too slow to act. The chief executive officer and entire governing board resigned.

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17. In the wake of the Larry Nassar scandal, USA Gymnastics acknowledged it was “not sufficiently responsive in disciplining offenders and terminating their access to young gymnasts” and engaged Deborah J Daniels to lead a review of USA Gymnastics’ bylaws, policies, procedures and practices related to the handling of sexual misconduct matters.<sup>5</sup>

18. Daniels reported in June 2017. One overarching recommendation was that USA Gymnastics undergo a “complete cultural change, permeating the entire organization and communicated to the field in all its actions”.<sup>6</sup> Further: “USA Gymnastics needs to take action to ensure that this change in culture also is fully embraced by the clubs that host member coaches, instructors and athletes.”<sup>7</sup>

### **A culture of verbal, emotional and physical abuse**

19. Current and former gymnasts have revealed a “win-at-all-costs” culture at USA Gymnastics. The culture was institutionalised by the coaches of the elite athletes, Martha and Bela Karolyi, and tacitly endorsed by the governing body. The Karolyis got results: they contributed to 41 Olympic medals including 13 gold. They trained hundreds of American gymnasts over 30 years.

20. However, the winning came at a cost. Athletes were encouraged not to complain at training. This mindset became so embedded that athletes were training with broken bones and other injuries while being subject to verbal abuse. One athlete suffered 13 broken bones while training with the Karolyis from ages 11 to 15. At the same time, they were body-shamed and put on extremely challenging diets - some as low as 800 calories per day. The training routine and diet meant puberty was delayed for a lot of athletes. Those who started their menstrual cycles were ridiculed by coaches. Delayed puberty can cause lifelong problems like osteoporosis.

21. This culture of outward resilience (to enable training to enable winning) allowed Larry Nassar to get away with sexual abuse. Athletes, most of whom were children, were afraid to challenge authority figures, even when their behaviour became obscene. At the same time, Nassar could position himself as the only nice guy around, creating trust and friendship with the athletes who would become his victims.

### **Professional cycling and the culture of doping**

22. The United States Anti-Doping Agency (USADA) has asserted that beyond doping himself, Lance Armstrong also:

- grew a doping culture within his team
- pressured riders to dope
- distributed doping products
- ostracised those who refused to participate in doping
- intimidated any rider who considered breaking the code of silence.

23. Armstrong has always maintained doping to help performance was rife in cycling. This has been reinforced by a 2015 report from the Cycling Independent Reform Commission (CIRC)

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<sup>5</sup> [https://usagym.org/PDFs/About%20USA%20Gymnastics/ddreport\\_062617.pdf](https://usagym.org/PDFs/About%20USA%20Gymnastics/ddreport_062617.pdf)

<sup>6</sup> Ibid. p 23

<sup>7</sup> Ibid.

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which found the International Cycling Union (UCI) ignored all but the worst offenders to protect the reputation of the sport.

24. The UCI always showed favourable treatment to Lance Armstrong. Those interviewed by CIRC for the report estimated up to 90 percent of the peloton was doping. CIRC reported that despite recent high-profile doping cases a culture of doping continued to exist and athletes were “micro-dosing” to maintain their blood parameters at a level that would not arouse suspicion from those monitoring their athlete biological passport.<sup>8</sup>
25. Other prominent cyclists have admitted to doping. Tour de France “winner”, Floyd Landis admitted to using EPO, testosterone, human growth hormone and blood transfusions, while naming others who had doped. Alberto Contador won the Tour de France in 2007, 2009 and 2010 but was stripped of his 2010 title after testing positive for clenbuterol (which he claimed was ingested through meat he ate). Promising teenage cyclist Gabriel Evans was banned from cycling after taking EPO, claiming doping was “normalised and justified”. CIRC described doping in amateur cycling as “endemic”. Many others have returned positive tests and received bans (or been subsequently cleared).

### **Other examples of problematic sports culture**

26. Some further examples of problematic sport culture include:

- Some sport organisations have cultures of heavy drinking. This can lead to behaviours we want to discourage. For example, at least a third of all Police recorded offences are committed by an offender who has consumed alcohol prior to committing the offence.<sup>9</sup>
- Some sport organisations have a culture of “playing through the pain”. This manifests as athletes training and competing while injured or overtraining to prove their toughness to their organisation. While perseverance and discipline are to be applauded, overtraining, risking new injuries and jeopardising recovery from existing injuries are not.
- One national sport organisation (NSO) has told us children playing one sport see professionals arguing with the umpire on television and believe they can do the same. By the time these children are inspired to start playing their perception of acceptable behaviour is entrenched. Changing that perception is a huge challenge for administrators and coaches.

### **Lessons from these examples**

27. The Daniels report described four aspects of effecting cultural change:

- a strong voice from the top of the organisation
- clear standards of behaviour
- provision of sufficient resources to assist in maintaining the standards
- accountability.<sup>10</sup>

28. Further, the Daniels report states that every other recommendation reflects one or more of these criteria for effecting cultural change. The report asserts:

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<sup>8</sup> <https://keyassets.timeincuk.net/inspirewp/live/wp-content/uploads/sites/2/2015/03/CIRC-Report-2015.pdf>

<sup>9</sup> <https://www.alcohol.org.nz/resources-research/facts-and-statistics/nz-statistics/alcohol-and-crime>

<sup>10</sup> Daniels report, p 23

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*As the following sections will recommend, the focus on athlete protection must be truly paramount. The words and deeds of the USA Gymnastics Board of Directors (Board) and the administrative **leadership must embody this culture** of protection. **Clear standards** of conduct must not only be created, but also enforced. And those in the field must be **provided with the support necessary** to maintain the standards; but beyond that, everyone from the top of the organization down through the member clubs must hold others **accountable** to meet the standards. (Bold added by Sport NZ for emphasis.)<sup>11</sup>*

29. The widespread doping in cycling, the lenient approach taken by management and the vilification of whistleblowers, shows the sport had a culture that normalised the practice to a point where it became institutionalised.
30. The leading sports administrators we have spoken to have said organisational culture is very heavily influenced by the leaders in an organisation. Where misconduct is handled badly (or not at all) it can result in a loss of trust in an organisation and its leadership. Where trust is lost it takes considerable time and energy to restore. A loss of trust also discourages people from raising issues.

<b>OV1</b>	To what extent is organisational culture undermining integrity in the sport organisations you are involved with? Please explain your answer.
<b>OV2</b>	What changes, if any, would you make to organisational culture in the sport organisations you are involved with to improve sport integrity?
<b>OV3</b>	Who should be responsible for establishing a healthy organisational culture within a sport or sport organisation?

### 3/4: Speak up culture, whistleblowing and incident management

This section considers the characteristics and mechanisms that should make sport integrity breaches more likely to be reported.

#### Speak up culture

31. Those involved with any organisation, sporting or otherwise, need to feel they can report incidents or make complaints, i.e. “speak up” if they see or experience bullying, corruption or any other sport integrity issue. The culture set by leadership plays a big role in determining whether members feel comfortable speaking up and able to do so. It is important to recognise that some issues are particularly hard to speak up about, e.g. sexual harassment.
32. Members need to be confident that if they raise an issue:
- they will not suffer any adverse consequences and will remain safe and protected
  - it will be taken seriously
  - it will be handled through a fair process
  - it will be handled in a way that is consistent with other issues raised
  - there will be consequences for those breaching rules.

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<sup>11</sup> Ibid.

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33. To enable a culture where people feel able to speak up, the Institute of Directors encourages organisations to follow six general principles:

- **Offer a variety of channels for speaking up and accessing information about member rights and obligations.** This is particularly important in a sport organisation with no human resources department where a member might want to complain about someone in a higher leadership position or in a different role.
- **Be responsive.** Complainants need to know their complaints are taken seriously and that action will be taken as a result.
- **Make responses visible where possible.** Trust in an organisation is built when members can see the complaints of other members are handled effectively. However, it may not always be possible or appropriate to make responses public, e.g. where anonymity should be protected.
- **Listen to people speaking up about lesser matters.** Not every claim will be a legitimate sport integrity breach that needs remedying. However, listening to and recording complaints as they arise will help an organisation build a profile of risk, including in areas management might not have direct visibility over.
- **Regularly consider the data from those speaking up.** This is essential for considering patterns in reporting which can identify risks.
- **Consider publicly reporting statistics.** This could improve the perception of the organisation's transparency and credibility in the eyes of external parties.<sup>12</sup>

## Whistleblowing and the Protected Disclosures Act 2000

34. Whistleblowing is the reporting of illegal activity and other misconduct outside the regular management avenues. As noted above, USA Gymnastics and professional cycling had cultures that discouraged whistleblowing. This makes it much harder for serious sport integrity breaches to be reported and rectified.

35. The purpose of the Protected Disclosures Act (the Act) is to encourage people to report serious wrongdoing (as defined in the Act) in their workplace by providing protection for employees (including volunteers) who want to 'blow the whistle'.<sup>13</sup>

36. Serious wrongdoing includes:

- unlawful, corrupt or irregular use of public money or resources
- conduct that poses a serious risk to public health, safety, the environment or the maintenance of the law
- any criminal offence
- gross negligence or mismanagement by public officials.

37. To make a protected disclosure, you must be an 'employee' of the organisation you are making the disclosure about. Under the Act, 'employee' includes:

- volunteers
- former employees

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<sup>12</sup> Institute of Directors, 'Whistleblowing, Speak Up Culture and the Board,' Directors Brief, Issue 6, 2018.

<sup>13</sup> <http://www.ombudsman.parliament.nz/what-we-do/protecting-your-rights/protected-disclosures-whistle-blowing>

- 
- homeworkers
  - contractors
  - people seconded to organisations.

38. Generally, protected disclosures must be made in accordance with an organisation's internal procedures. However, there are notable exceptions to this. Protected disclosures can be made to the head of the complainant's organisation if the organisation does not have internal procedures or if the person managing the internal procedures process is reasonably believed to be involved in the serious wrongdoing. Protected disclosures can be made to an appropriate authority (e.g. the Police) if:

- the complainant reasonably believes the head of the organisation is involved in serious wrongdoing
- there are urgent or exceptional circumstances, or
- there has been no action or recommended action in the complaint's organisation 20 days after the complainant raised the complaint internally.

39. The Protected Disclosures Act is being reviewed. Public consultation on options for reform will take place in late-2018.

40. Sport NZ has developed a whistleblowing policy for NSOs to adopt<sup>14</sup> but uptake has been limited.

### **Different integrity breaches involve different reporting lines**

41. Under current New Zealand arrangements, different sport integrity breaches require different responses from different organisations. Some fall within the responsibilities of enforcement agencies, for example:

- criminal matters that need to be reported to, and handled by, the Police, e.g. match-fixing, sexual abuse, corruption (e.g. theft, obtaining by deception, etc)
- some fraud matters that may reach the threshold for the involvement of the Serious Fraud Office
- anti-doping matters that need to be reported to, and handled by, Drug Free Sport NZ (DFSNZ – although Medsafe, Customs and/or the Police may also have a role).

42. Other breaches may be handled by sport organisations (clubs, regional sport organisations, national sport organisations, etc). For example:

- A parent wants to complain about the coach of their child's sports team not giving their child enough game time. Do they complain to the club, the regional sport organisation, the NSO or some other party?
- An athlete or member wants to make a complaint about the conduct of the chief executive of an organisation bullying athletes and administrators. The chief executive dismisses the complaint. Ideally, the board should hold the chief executive to account. What if the board appears conflicted, e.g. if they recently appointed the chief executive? Who can the athlete or member turn to?

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<sup>14</sup> <https://sportnz.org.nz/managing-sport/search-for-a-resource/news/whistle-blowing-policy>

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- A spectator verbally abuses a volunteer referee, disincentivising their participation. Some referees can penalise teams for the behaviour of their spectators. That aside, if the referee wants to complain are they best to complain to the team or club associated with the spectator, the regional sport organisation, the regional sports trust, the NSO, or someone else? What action can the body receiving the complaint take?
  - A male coach insists on hugging young female athletes after training. This causes slight concern to parents, caregivers and athletes. The athletes feel obliged to tolerate the behaviour as it may not be illegal and the coach is one of the selectors for the team. Who could a concerned person turn to?
  - A coach has a consensual sexual relationship with a teenage athlete. This creates a conflict of interest as the coach selects the team and the imbalance of power in the relationship makes some uneasy. Who could a concerned person complain to?

### **Some sport organisations have policies for managing incidents**

43. Some club leaders tell us incidents occur rarely (or never), while others deal with incidents on an ad hoc basis through sensible decision making by club leaders who hold mana in their communities. Other organisations, including NSOs, have clear rules and procedures in place to deal with these issues, including the ability for cases to be heard by an independent panel or committee.
44. Those affiliated with sport want to see incident management policies that:
- are fair to all parties
  - follow a clear process
  - avoid conflicts of interest
  - result in consistent decision making
  - are not prohibitively expensive.
45. Incidents can vary considerably in their nature and severity. Written policies can be useful to provide certainty and transparency.
46. We are aware of some NSOs having procedures in place for managing some incidents. In a very general sense the procedure can often look like this: a board or chief executive will consider the allegation to determine if the matter is substantial enough to merit a more formal hearing. If it is, a judicial committee (or similar) will be convened, potentially comprising some or all of a national board member, an athlete, a legal professional, and someone involved at club or regional level. The Committee will consider the evidence, make a decision, and report to the board with recommendations. The parties may also have appeals rights, such as to the Sports Tribunal of New Zealand.<sup>15</sup>
47. For many matters that will work well. But we have heard that for some complaints, particularly those involving top level management and governance, athletes and others involved with a sport may want an independent channel to raise and/or investigate concerns. As has been shown with USA Gymnastics and professional cycling, organisations can be conflicted between protecting their reputation and that of their sports, and dealing with incidents transparently and effectively. In other words, some consider sport organisations to be insufficiently independent when investigating themselves,

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<sup>15</sup> <http://www.sportstribunal.org.nz/>

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meaning whistleblowers might not trust them to manage some matters, particularly very serious integrity breaches.

## **Examples of organisations with channels for whistleblowing**

48. Examples of avenues for raising issues established by New Zealand sports and racing organisations are given below. Generally, if issues are raised they are referred back to clubs, franchises and other bodies within sports to deal with. It is important to stress that where an avenue for raising issues is available it should be adequately publicised and preferably include an option for raising issues anonymously.

### **New Zealand Rugby**

49. NZ Rugby has set up an independent online and free phone service (0800 246 643) which is designed for complaints relating to inappropriate or objectional behaviour from anyone involved in rugby. All complaints go through to independent senior lawyer Steph Dyhrberg who is experienced in dispute resolution.<sup>16</sup> Anyone can complain about:

- unethical, dishonest or illegal behaviour
- harassment (sexual or otherwise)
- bullying
- misconduct
- health and safety risks
- unlawful discrimination
- offensive or insulting language or behaviour.

50. The independent manager will listen to a complaint. If it is something that can be dealt with through the NZ Rugby complaints infrastructure they will take notes. Complaints may be dealt with by NZ Rugby itself or passed on to other parties to manage, e.g. provincial unions, Super Rugby franchises, etc. Judicial officers or judicial committees may impose sanctions if misconduct is found.

51. NZ Rugby has developed an app called Rugby Intel as a support tool aimed at providing players, staff, team management and others with:

- a confidential channel through which to report any suspicious incidents or behaviour, whether related to match-fixing, doping or other concerns
- easy access to the integrity, betting, anti-doping and anti-match-fixing rules
- the ability to include evidence such as an audio file or photo.

52. Rugby Intel is free to download and all issues, reports or other information can be provided anonymously or otherwise.

### **New Zealand Football**

53. NZ Football has two email addresses that can be used to raise integrity issues. There is an integrity email address monitored by the NZ Football Integrity Officer and an ethics email address monitored by the NZ Football Ethics Committee representative. A low volume of reports is received through these email addresses.

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<sup>16</sup> <http://www.nzrugby.co.nz/what-we-do/rugby-responsibility/respect-and-responsibility-review/complaints-management-service>

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54. Footballers anywhere in the world, including New Zealand, can use the Red Button app. The app allows players approached to fix a match to report the fix to a security company. The app was developed by the Fédération Internationale des Associations de Footballeurs Professionnels (FIFPro), essentially the international players association for professional footballers. The app allows for anonymous reporting. Internationally, there is a strong link between match-fixers and organised crime. FIFPro research found high number of players would not report an approach without guaranteed confidentiality to mitigate the fear for their safety. This was the position of 34 percent of players in Scotland, 44 percent in Norway and 71 percent in Greece.<sup>17</sup>

### **New Zealand Racing Board**

55. The New Zealand Racing Board has established the Racing Integrity Unit (RIU) to investigate integrity matters in the racing industry. The RIU has established a hotline for anyone to anonymously report integrity issues – 0800 RIU 123. The hotline receives around 30 calls per month.

### **An international mechanism – the Sport Integrity Hotline**

56. The International Centre for Sport Security launched a Sport Integrity Hotline in December 2017. The Hotline was established to help anyone involved in sport at any level, anywhere in the world to report misconduct and sport integrity issues.<sup>18</sup> The hotline can receive reports covering the following areas:

- administrative corruption and misconduct
- fraud, including match fixing, illegal betting and money laundering
- athlete welfare, including sexual harassment and abuse
- conflicts of interest and breaches of ethics
- human trafficking and child protection issues in sport
- use of sport for radicalisation.<sup>19</sup>

57. The service received over 50 allegations of wrongdoing in sport globally from over 20 countries in its first six months of operation. Allegations to date have related to match-fixing, doping, sexual exploitation, corruption and other accusations of criminal activity in a range of sports. Reporters can report anonymously – only eight percent have chosen to reveal their identity.

58. The platform is managed by WhistleBlower Security, a specialist ethics and case-management agency. When calls are received they are provisionally analysed and referred as appropriate to law enforcement agencies, national sport organisations and other organisations.

#### **OV4**

To what extent do you feel you would report integrity breaches relating to doping to Drug Free Sport NZ? Please explain your answer.

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<sup>17</sup> <https://www.cdcgamingreports.com/red-button-anti-match-fixing-app-embraced-by-eu/>

<sup>18</sup> <http://www.sportsintegrityinitiative.com/sport-integrity-hotline-receives-50-allegations-misconduct-first-six-months/>

<sup>19</sup> <http://www.theicss.org/en/expertise/view/special-integrity-unit-siu>

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<b>OV5</b>	To what extent do you feel you would report integrity breaches relating to criminal activity to the Police and other enforcement agencies? Please explain your answer.
<b>OV6</b>	Does your sport have mechanisms for reporting integrity breaches? Are they domestic or international mechanisms? Please provide details.
<b>OV7</b>	Do you trust your sport to handle integrity breaches appropriately and effectively? Please explain your answer.
<b>OV8</b>	How does your sport organisation handle integrity breaches? Does it have a written policy?

## 4/4: Sport integrity institutional arrangements

Jurisdictions have different institutional arrangements for sport integrity. Each chapter of this discussion document will cover the relevant New Zealand arrangements in greater detail and will mention international arrangements where relevant.

The purpose of this section is to holistically consider the institutional arrangements across the five areas of sport integrity covered by this document to enable comparison with other jurisdictions and to consider the interplay between the different organisations.

### Overview of the New Zealand arrangements

59. An overview of the New Zealand arrangements is set out in the table overleaf.

**OV Table 1: Overview of New Zealand’s sport integrity institutional arrangements**

	<b>Anti-doping</b>	<b>Match-fixing</b>	<b>Corruption</b>	<b>Member protection</b>	<b>Children’s sport</b>
<b>Policy</b>	Set by the World Anti-Doping Code (which New Zealand works to influence).	The Ministry of Justice administers the Crimes Act.  Sport NZ led development of the New Zealand Policy on Sports Match-Fixing and Related Corruption.	The Ministry of Justice administers most of the legislation that directly targets corruption-style offences.	Criminal matters fall into a number of statutes.  Sport organisations should have their own policies for sub-criminal matters.	The Ministry of Justice and Oranga Tamariki administer relevant legislation.  Sport organisations set their own child protection policies.
<b>Enforcement (including handling complaints/allegations)</b>	DFSNZ undertakes testing and investigations. Cases are brought to the Sports Tribunal and NZ Rugby Judicial Committee where evidence of anti-doping rule violations is found.	NZ Police enforce the criminal provisions in the Crimes Act.  NSOs and international federations will have their own sport-specific penalties.	NZ Police and the Serious Fraud Office.	Sport organisations should be able to enforce their own policies for sub-criminal matters.	NZ Police for criminal matters.  Oranga Tamariki should be contacted where a child is believed to be in danger.  Sport organisations should enforce their child protection policies.  Police vetting and criminal record checking is available.
<b>Education</b>	DFSNZ, although other organisations, e.g. NSOs, the New Zealand Olympic Commission, and Paralympics New Zealand will work with DFSNZ to make their athletes available.	NSOs and players’ associations.  Sport NZ provides resources to aid implementation.	Sport NZ provides resources to help sport organisations achieve robust, transparent governance.	Guidance on relevant legislation is available online.  Sport organisations.	Sport organisations.

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## Overseas examples

### Sport integrity units for specific professional sports – Australia

60. Several Australian NSOs have established sport integrity units for their top tier competitions. Examples are set out in the table below.

**OV Table 2: Sport integrity units in Australian sport**

<b>Code</b>	<b>Responsibilities</b>	<b>Points of interest</b>
<b>Australian Football League (AFL) Integrity Unit</b>	<ul style="list-style-type: none"><li>• Anti-doping, including supplements management</li><li>• Illicit drugs</li><li>• Player welfare, including problems associated with gambling, concussion, alcohol</li><li>• Anti-match-fixing</li><li>• Salary cap issues</li><li>• Anti-corruption</li><li>• Security around match venues and team travel, including emergency management and counter-terrorism measures</li></ul>	<ul style="list-style-type: none"><li>• Focused on top level competition but looking to implement a model clubs can adopt</li><li>• Investigative and intelligence capabilities</li><li>• Has a club management system database that it is mandatory for AFL personnel to lodge details in</li><li>• Tracks whereabouts and supplement use</li><li>• Whistleblowing process managed independently</li></ul>
<b>Cricket Australia Integrity Unit</b>	<ul style="list-style-type: none"><li>• Anti-doping, including supplements management</li><li>• Anti-corruption and sports betting</li><li>• Salary cap issues</li><li>• Anti-match-fixing and pitch-siding</li><li>• Security at matches</li><li>• Competition insurance</li><li>• Player conduct</li></ul>	<ul style="list-style-type: none"><li>• Main focus areas: intelligence gathering and analysis, investigations, relationship management, education and systems development</li><li>• Whistleblowing hotline managed independently</li></ul>
<b>National Rugby League (NRL) Integrity Unit</b>	<ul style="list-style-type: none"><li>• Anti-doping</li><li>• Illicit drugs</li><li>• Salary cap issues</li><li>• Match-fixing and betting</li><li>• Player and officials' behaviour</li></ul>	<ul style="list-style-type: none"><li>• Clubs are responsible for discipline for some integrity breaches</li><li>• Has power to require players and clubs to fully cooperate with investigations. This includes providing documents including phone records.</li></ul>

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## Australian Sport Integrity Review

61. A review of Australia's sport integrity arrangements has recently been released.<sup>20</sup> A number of the recommendations relate to initiatives and protections that New Zealand already has in place or which are not relevant to the New Zealand context. For example:

- establish national match-fixing legislation (New Zealand already has this: section 240A Crimes Act)
- establish a national Sports Tribunal (New Zealand already has a national Sports Tribunal)
- address difficulties created by the federal system of Government such as information sharing between states – not applicable to New Zealand.

62. The review also recommended establishing a Sport Integrity Commission with a broad remit. Sport NZ will look forward to seeing more detail about how that would work and what its specific role and scope would be.

63. The Australian Government is now consulting on the recommendations and will announce its response in due course. It is likely the recommendations will require significant government spending to implement.

## Aligning responsibility for anti-doping and broader values based education – Canada

64. The Canadian Centre for Ethics in Sport (CCES) has a very broad remit across many areas of sport integrity.<sup>21</sup> CCES was formed when the Canadian Centre for Drug-Free Sport merged with Fair Play Canada. The organisation is responsible for the implementation and management of Canada's anti-doping programme. It also offers a range of services including:

- programme collaboration, e.g. CCES can work with a sport organisation to implement an ethical initiative
- customised presentations on topics of interest
- values auditing for sport organisations
- the Ethical Issues Review Panel, i.e. an independent group of experts who can consider an issue and advise an organisation
- troubleshooting, i.e. working through strategic or operational challenges with an organisation, including disciplinary issues
- customised education programmes
- assistance with bidding for, and hosting, major events.

65. CCES could be seen as a manifestation of the recent trend to move to “values based” education. Values based education aims to instil good ethical values to inform decision making in an athlete, rather than simply tell them what they should and should not do. Values based education is thereby relevant to all aspects of sport integrity. CCES is concerned by a broad range of behaviours, including weak governance, parental behaviour, negative behaviour in professional sport and a lack of access to sport for some groups.

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<sup>20</sup> [http://www.health.gov.au/internet/main/publishing.nsf/Content/63F0A5D7BDA5A0B5CA2582CF0005E6F9/\\$File/HEALTH-RASIA-Report-Acc.pdf](http://www.health.gov.au/internet/main/publishing.nsf/Content/63F0A5D7BDA5A0B5CA2582CF0005E6F9/$File/HEALTH-RASIA-Report-Acc.pdf)

<sup>21</sup> <https://cces.ca/>

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66. CCES is not-for-profit and independent from government and sport organisations. It receives funding from Sport Canada, fees for services and grants.

### **Aligning responsibility for anti-doping and match-fixing activities – Finland**

67. While Canada has placed responsibility for anti-doping and values based education with CCES, other jurisdictions have aligned responsibility for anti-doping with responsibility for match-fixing activities.

68. The Finnish Centre for Integrity in Sports (FINCIS) has responsibility for anti-doping, preventing the manipulation of sports competitions (match-fixing) and promoting spectator safety and comfort.<sup>22</sup>

69. FINCIS undertakes anti-doping activities similar to DFSNZ under the brand of the Finnish Anti-Doping Agency (FINADA). This includes activities related to educating athletes, testing, investigating, and influencing FINADA's international counterparts.

70. FINCIS is the national "clearing house" for information for match-fixing. The organisation also has the authority to investigate allegations where appropriate. Co-locating match-fixing and anti-doping activities means education on these two areas can be coordinated.

71. FINCIS also has responsibility for fulfilling Finland's obligations under the Council of Europe Convention on Safety, Security and Service and the Convention on the Manipulation of Sports Competitions.

### **Athlete Ombudsman – United States Olympic Committee**

72. The Athlete Ombudsman is a role within the infrastructure of the United States Olympic Committee. The Athlete Ombudsman can provide free, independent advice to athletes on the Olympic team, while bound by a duty of confidentiality. The Athlete Ombudsman can advise on areas such as:

- conflict mediation and resolution (although a dispute could be filed with the American Arbitration Association for a final and binding decision)
- athlete rights
- selection
- anti-doping
- athlete agreements, codes of conduct, etc
- commercial arrangements
- eligibility concerns
- laws, bylaws and policies
- pursuing formal grievances.<sup>23</sup>

### **Integrity units established by international sporting bodies**

73. There are a range of sport integrity units established by international sporting bodies with different mandates. Two examples are set out below.

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<sup>22</sup> <https://www.suek.fi/web/en/activities>

<sup>23</sup> <https://www.teamusa.org/Athlete-Resources/Athlete-Ombudsman>

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### *Athletics Integrity Unit*

74. The Athletics Integrity Unit (AIU) was established by the International Association of Athletics Federations (IAAF) in 2017. Athletics is the first international sport to delegate management of integrity matters to an independent body. The AIU is fully independent from the IAAF and reports to its own board. Its activities include:

- drug testing
- collecting intelligence and running investigations where there may be integrity breaches (e.g. doping, match-fixing, etc)
- prosecuting disciplinary cases
- monitoring athletes for compliance
- running education and prevention programmes for athletes and their support personnel.<sup>24</sup>

### *International Cricket Council Anti-Corruption Unit*

75. It is well known that match-fixing has been a scourge on cricket in recent years. The Anti-Corruption Unit (ACU) was established by the International Cricket Council (ICC) to protect cricket by countering match-fixing and other corruption. Its focus is on international athletes and matches. International matches are now played with ICC officials present in the grounds. Players are in “quarantine”, restricted to certain areas and unable to access their mobile phones while games are underway in order to remove any risk or perception of providing bookmakers with inside information.

76. ACU investigations have highlighted the use of former and current players (“trusted insiders”) and known corruptors (“repeat offenders”) to manipulate match results. The ACU has also rapidly developed an understanding of the methods used to avoid detection and the use of social media in arranging match-fixes.<sup>25</sup>

77. The ACU has a strong relationship with New Zealand Cricket and the New Zealand Cricket Players Association. ACU representatives visit New Zealand to meet our sports officials and discuss and align efforts to prevent match-fixing and other forms of corruption.

**OV9** Do New Zealand’s institutional arrangements for sport integrity create any problems or risks? Are there any gaps in New Zealand’s institutional arrangements for sport integrity? Please explain your answer.

**OV10** What role should central government play in addressing any gaps in the institutional arrangements for sport integrity?

**OV11** Do you have any other comments on organisational culture, whistleblowing and the institutional arrangements for sport integrity in New Zealand?

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<sup>24</sup> <https://www.athleticsintegrity.org/know-us>

<sup>25</sup> <https://www.icc-cricket.com/about/integrity/anti-corruption/about-us>

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# Chapter 2: Member protection

This chapter covers the aspects of sport that impact on physical and mental health and safety. It is set out in three sections:

- physical health and safety on the field
- misconduct and inappropriate behaviour, including on-field conduct; harassment, abuse and bullying; harmful digital communications; abuses of power; and negative sideline behaviour
- the obligations some sport organisations face under the Health and Safety at Work Act 2015.

## What is member protection?

1. Member protection refers to the measures in place to protect those involved in sport from undue harm. This includes:
  - mitigating physical health and safety risks (while accepting that there is an inherent risk in many physical activities, particularly contact sport)
  - preventing behaviour that detracts from the enjoyment of sport and that can negatively impact mental health, such as harassment, bullying, abuse, abuses of power, misconduct and any other inappropriate behaviour.
2. We define member protection to refer to all those formally involved in sport. This includes athletes/participants, referees, administrators, coaches and support staff.
3. Member protection covers behaviour on and off the field.
4. Some organisations include child protection as a subset of member protection. This discussion document considers integrity issues in children's sport in a separate section below.

## 1/3: Physical health and safety on the field

This section considers the cost of injuries acquired while playing sport and some of the initiatives employed to reduce on-field injury risk.

5. While some sports are relatively placid, most sports involve a reasonable amount of physical movement. This entails an inherent risk of injury. Contact sports and extreme sports entail an even higher risk of injury.
6. Sport NZ wants to encourage participation in sport, and accepts the inherent risk in sport and the right of the individual to participate despite the risk. However, the government and sport organisations have a common interest in minimising injuries. Both want to encourage participation at all levels and, at the elite level, have the best athletes available to compete. Injuries jeopardise these objectives. Government has the further incentive of wanting to minimise the cost of the Accident Compensation Corporation (ACC) scheme.

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7. The cost of “sport-related” injuries is rising, even if the total number of sport-related ACC claims is not. The most recent data is presented below.<sup>26</sup>

**MP Table 1: Sport-related ACC claims**

<b>Financial year</b>	<b>New claims</b>	<b>Active claims</b>	<b>Total cost</b>
Jul 2012 – Jun 2013	394,578	479,578	\$380,850,949
Jul 2013 – Jun 2014	427,970	526,243	\$428,821,096
Jul 2014 – Jun 2015	450,971	555,863	\$491,377,650
Jul 2015 – Jun 2016	471,126	583,280	\$531,606,682
Jul 2016 – Jun 2017	460,361	578,163	\$556,818,607

8. New claims are those lodged during the financial year. Active claims are those paid out in a financial year, even if they were lodged the previous year. The data applies to claims from injuries arising from organised sport and informal, recreational pursuits. The total cost is clearly significant. For the 2016-17 financial year sport-related claims represented around 17.5 percent of the total cost of claims to ACC.

9. ACC has partnered with some of the larger sporting codes to produce SportSmart, an injury-prevention framework.<sup>27</sup> A prominent feature of SportSmart is the SportSmart Warm Up programme, which includes targeted warm up guidance for athletes playing rugby, netball, rugby league, football and touch. This aims to minimise the risk of injuries caused through inadequate warm ups. SportSmart also contains guidance regarding concussion to help those involved in sport recognise concussion, and deal with a concussed player.

10. The sport organisations we have spoken to seem very aware of the distinct health and safety risks of their sports and have implemented mitigation strategies. For example:

- Athletics NZ has identified the risk to bystanders inherent in throwing sports (discus, shotput, javelin, hammer throw) of being hit by thrown objects. The risk is particularly high outside the formal competition setting, e.g. when athletes are warming up or training. The induction of athletics officials now includes specific training on where to stand in relation to throwing sports.
- Professional rugby identified concussion as a risk and has implemented the Head Injury Assessment (HIA) as a means of determining if an athlete is fit to return to the field of play. World Rugby reports that prior to the institution of the HIA, 56 percent of concussed players returned to the field following injury. Since the institution of the HIA this has fallen to 12 percent.<sup>28</sup>
- All coaches of rugby teams at under 14 level and above must complete a RugbySmart course each year. The course is run in partnership with ACC and is recognised as a leading programme in sports injury prevention.<sup>29</sup>
- NZ Cricket has developed a helmet policy to minimise the risk of serious injury or death from players being struck in the head by cricket balls. Key features of the policy include:

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<sup>26</sup> Data available using the ACC statistics tool, set to sport-related injuries only: <https://www.acc.co.nz/about-us/statistics/#injury-stats-nav>

<sup>27</sup> <https://accsportsmart.co.nz/>

<sup>28</sup> <https://www.worldrugby.org/news/70796?lang=en>

<sup>29</sup> <http://nzrugby.co.nz/what-we-do/rugby-responsibility/rugby-wellbeing>

- the need for helmets to meet a specific standard: BS 7928: 2013
- application to those batting against fast or medium pace bowling, wicketkeeping at the stumps, fielding within 7 metres (except behind square on the offside)
- responsibility on coaches, managers and match officials to take reasonable steps to ensure the policy is adhered to
- helmets must be replaced by compliant helmets where they are damaged or they receive hard blows.

11. Specific initiatives to prevent overuse injuries in young athletes are discussed in the subsection on early specialisation in the chapter on integrity issues in children's sport.

#### MP1

To what extent are the rules of your sport(s) unnecessarily endangering participants? To what extent are the specific risk areas within your sport(s) mitigated by the rules you play by? Who should be responsible for safety on the field (or on the court, in the pool, etc)? Please explain your answers.

## 2/3: Addressing misconduct and inappropriate behaviour

This section discusses on-field behaviour and a range of negative off-field behaviours including:

- harassment, bullying and abuse
- harmful digital communications
- abuses of power
- negative sideline behaviour.

12. There are a range of negative behaviours that can occur in the domain of any organisation, including a sport organisation. These behaviours can occur on or off the playing arena (field, court, etc) and be perpetrated by players, coaches, parents and caregivers, officials, spectators, or others involved in sport.

13. These negative behaviours threaten well-being, enjoyment and the participation of all involved in sport. They can also damage the reputation of an institution or a sport, particularly if they become ingrained.

14. Generally, sport organisations manage the conduct of their members by having them agree to a code of conduct, ethics, or behaviour. A document of this nature will set out an organisation's expectations of those involved with it. Expectations may be couched as behaviours that should be exhibited, or values that should be reflected in behaviours. A code of conduct will also normally set out how complaints about misconduct will be handled and the consequences for anyone found to have breached the code of conduct.

15. Sideline behaviour is considered separately below.

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## Conduct when playing sport

16. Most athletes/participants want to play hard but fair. Tough competition is good but negative behaviour is not. This includes verbal and physical abuse, cheating, poor sportsmanship, taunting and other unacceptable behaviour.
17. Our preliminary research suggests these “on-field” issues are generally handled fairly well by sport organisations.<sup>30</sup> Most sports report having clear rules regarding on-field behaviour and a workable system for addressing these issues when they arise. For example, referees can award penalties and send players off. Adults involved with teams can encourage younger perpetrators to apologise. Governing bodies can impose proportionate bans for serious misconduct. Our hypothesis is that sports can continue to handle these types of incidents within their rules, without any external assistance from government.

**MP2** To what extent is on-field (on-court, in-pool, etc) behaviour a problem in the sports you are involved with? What measures are in place to encourage appropriate behaviour?

**MP3** Who should be responsible for managing behaviour on the field (or on the court, in the pool, etc)? Please explain your answer.

## Conduct off the field

### Harassment, bullying and abuse

18. Examples of harassment, bullying and abuse can occur in a variety of ways. They can be perpetrated by individuals or groups. Perpetrators can be players, coaches, parents and caregivers, administrators and others. Victims can be similarly varied and include people outside a sport organisation. These behaviours can have a base in racism, sexism, or other forms of prejudice.
19. Harassment, bullying and abuse can take several forms including:
  - physical, e.g. punching, kicking, pushing, etc
  - verbal, e.g. name calling, teasing, making threats, etc
  - psychological, e.g. sending anonymous harmful messages, preventing a person from going somewhere, taking a person’s possessions, etc
  - social, e.g. excluding or alienating a team mate, spreading rumours about an individual, peer pressuring a team mate into behaviour they are not comfortable exhibiting, etc
  - sexual, e.g. lewd behaviour, inappropriate comments, sexual harassment, sexual assault.
20. Examples of harassment, bullying and abuse include:
  - a parent being overly critical of their child’s performance
  - a coach alienating an athlete
  - a caregiver abusing a coach

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<sup>30</sup> For the avoidance of doubt, we are interested in behaviour while playing sport, whether on a field, on a court, in a pool, etc.

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- inappropriate, unwelcome comments and/or lewd gestures from one club member or participant to another
  - inappropriate, unwelcome touching or physical contact.
21. These behaviours could manifest as a one-off incident or become repeated and endemic. They could take place in a clubroom, at a function, at a sports ground or anywhere else, particularly if they are facilitated through technology.
22. Many of these behaviours will be illegal/unlawful, or have established pathways for complaints to be addressed. For example:
- Actions that constitute assault are illegal under the Crimes Act 1961. These are matters for the Police to handle.
  - Harassment is illegal under the Harassment Act 1997. Intentional harassment is a criminal offence while unintentional harassment is a civil matter. The District Court can grant a restraining order in some circumstances.
  - If your sport organisation is a workplace, bullying can be dealt with as a workplace matter under the Health and Safety at Work Act 2015 (HSWA). WorkSafe investigates the most serious cases of bullying where the target has been diagnosed by a specialist as having a serious mental health condition and where there was a clear link between workplace bullying and the illness. If the investigation finds sufficient evidence to prove a breach of the HSWA and it is in the public interest WorkSafe may prosecute. To date WorkSafe has not taken any prosecutions for bullying. The HSWA does provide for private prosecutions if WorkSafe decides not to take enforcement action.
  - If the behaviour occurs in an employment context and the employer cannot resolve the matter to the complainant's satisfaction the complainant could start a personal grievance procedure as provided by the Employment Relations Act (ERA). The grounds for personal grievance are set in section 103 of the ERA and include: unjustifiable action which disadvantages an employee, discrimination, sexual harassment and racial harassment.
  - Complaints regarding discrimination can be lodged with the Human Rights Commission
  - Harassment by digital means is covered in a separate section on social media use below.
23. Other examples of negative behaviour may cause offence or harm, be it intentional or not, e.g. when a perpetrator thinks they are making a joke, underestimating the harm to the victim. A victim might not always want to pursue a formal complaint.
24. Guidance on dealing with bullying, harassment and discrimination in the workplace is available here: <https://www.employment.govt.nz/resolving-problems/types-of-problems/bullying-harassment-and-discrimination/general-process/>.
25. The Ministry of Business, Innovation and Employment offers a free mediation service to help resolve employment related issues.<sup>31</sup> If mediation fails, some employment matters can be referred to the Employment Relations Authority who can make a determination.
26. The Human Rights Commission provides a free and confidential mediation service. If mediation doesn't resolve the dispute, the employee can take the dispute to the Director of the Office of Human Rights Proceedings, Human Rights Review Tribunal. For more

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<sup>31</sup> <https://www.employment.govt.nz/resolving-problems/steps-to-resolve/mediation/>

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information you can contact the Human Rights Commission on 0800 4 YOUR RIGHTS (0800 496 877) or email [infoline@hrc.co.nz](mailto:infoline@hrc.co.nz).

- MP4** To what extent are harassment, bullying and abuse problems in the sport organisations you are involved with? Please explain your answer.
- MP5** Are the sport organisations you are involved with willing and able to handle harassment, bullying and abuse when they arise? Are you aware of any policies, processes or systems in the sport organisations you are involved with have in place to mitigate bullying, harassment and abuse? Have you used, or would you be willing to use, these policies, processes, or systems? If the sport organisations you are involved with require additional support to address bullying, harassment and abuse, what additional support do they need?

### Social media and harmful digital communications

27. Sport organisations have embraced social media and the opportunities it presents to market an organisation and keep members and supporters informed of activities. However, it also entails risks. By its nature, social media is user controlled. Users can upload content without the approval or even awareness of the organisations they are affiliated with, or that their content is affiliated with. This means users can upload content that is harmful to other users or use social media platforms for harmful private communication. Social media can also have a large reach – information or pictures posted online can quickly be viewed by large numbers of people.
28. Sport NZ has produced a Social Media Game Plan.<sup>32</sup> This document contains some advice on protecting those affiliated with sport but is primarily focused on helping an organisation establish its online presence.
29. Our understanding is that:
- sport organisations have no incentive to post harmful content as it would detract from their aim of encouraging participation
  - individuals may post inappropriate or harmful content, either on organisational platforms (e.g. the club Facebook page) or own their own platforms
  - some participants (or their parents and caregivers) are uncomfortable with pictures or video of them training or competing being uploaded to the internet without their permission
  - social media platforms can be used for harmful private messaging.
30. The Harmful Digital Communications Act 2015 introduced a civil regime and criminal offences to tackle online bullying, harassment and other forms of abuse and intimidation. Netsafe operates the civil regime and can provide advice on how to remedy a situation. Netsafe can use persuasion, mediation and negotiation to help parties reach a resolution. The Police will handle criminal matters. If you are receiving harmful digital communications you are advised to contact Netsafe on 0508 NETSAFE (638 723), at [help@netsafe.org.nz](mailto:help@netsafe.org.nz), or through the website [www.netsafe.org.nz/report](http://www.netsafe.org.nz/report).

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<sup>32</sup> <https://sportnz.org.nz/managing-sport/search-for-a-resource/guides/social-media-gameplan>

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31. Sport organisations may also impose their own sanctions on members for sending harmful digital communications. Even if a sport organisation does impose a sanction, this would not preclude the target of harmful content seeking redress under the Harmful Digital Communications Act.

**MP6** Have you ever experienced harm as a result of using social media in relation to sports? Please provide details as you feel comfortable.

**MP7** Do the sport organisations you are involved with have a social media policy? If so, is it effective in preventing harm? Do you think sport organisations need a social media policy?

**MP8** What role should sport organisations have in their participants' use of social media?

### Abuses of power

32. As noted elsewhere in this document, sport organisations:

- are hierarchical
- often rely on volunteers who can feel a sense of entitlement for their service
- have traditionally been self-regulating
- often involve adults working with children and young people.

33. These conditions can produce abuses of power where a person misuses the power or authority that has been entrusted in them. These abuses can create member protection issues, as well as issues in other areas of sport integrity like corruption. Some abuses of power are clearly illegal and the Police should be informed. Others may be legal or may not meet the threshold for the Police to take action. For example:

- an adult male coach insists on hugging child athletes in the team he coaches at the end of practice. This may not meet the threshold for harassment or abuse but creates some concern within the team who tolerate the behaviour because the coach selects the playing line up.
- a coach abuses their power by bullying members of their team to make an example of athletes who do not perform to their expectations. This could include intimidating, insulting, ridiculing, humiliating and benching players.
- a respected team member encourages their team mates to use risky supplements.
- a respected team captain encourages their team mates to participate in a hazing ritual involving alcohol and embarrassment.
- an adult male coach has a consensual sexual relationship with a teenage female athlete in their team. The relationship is consensual in that both parties have reached the age of consent and have agreed to the relationship and therefore it is not illegal. However, there is a clear imbalance of power in that the coach can determine whether the athlete is selected and the quality of the sports experience she has. It also gives the coach a conflict of interest when selecting other players. This type of relationship may be hard for a sport organisations to manage. Despite being legal the relationship has the potential to create significant issues for a team and the young person involved.

- a long-serving volunteer Treasurer borrows money from the club without clear permission. They leave IOU notes and have repaid what they have borrowed so far but the amounts being borrowed are getting larger and larger. The Board Chair, who is the brother of the Treasurer, is not bothered by the behaviour.

34. The behaviours described above might not be criminal in nature, or at least might start out as lawful before escalating. It is important those involved in sport can participate without being the victim of inappropriate behaviour, and that where inappropriate behaviour occurs it is dealt with effectively. Sport organisations need to be prepared to manage incidents by having policies and procedures in place and confidence in implementing them. Sport organisations, and their members, also play an important role in defining what behaviour is “inappropriate”.

<b>MP9</b>	Have you seen abuses of power in sport organisations you are involved with? Please provide details as you feel comfortable.
<b>MP10</b>	Do the sport organisations you are involved with have mechanisms in place to prevent and mitigate abuses of power? Please provide details.
<b>MP11</b>	Do you trust the sport organisations you are involved with to handle the negative consequences of abuses of power appropriately and effectively? Please explain your answer.
<b>MP12</b>	Where a behaviour is negative but not illegal, should it be left to the sport organisation to deal with? Please explain your answer.

## Sideline behaviour

35. Poor sideline behaviour can negatively impact the experience of athletes, referees, coaches, other spectators and others. Verbal abuse can discourage athletes and volunteer referees and coaches from participating and lead to imitation and normalisation of negative behaviour. In contrast, positive sideline behaviour can motivate and encourage participants and help ensure everyone has a good time and wants to remain in sport. Most sports will suffer from some form of negative sideline behaviour at some point.

36. The environment for sport should be positive and supportive, but research suggests verbal and physical abuse is too common in New Zealand. In 2015, Fairfax surveyed 250 people who had attended at least one junior sport game in the past 12 months as a parent, relative, coach, administrator or spectator. The findings are shown in the tables below.<sup>33</sup>

<sup>33</sup> <https://www.stuff.co.nz/national/72867243/survey-lifts-lid-on-extent-of-abuse-and-poor-adult-sideline-behaviour-at-kids-games>

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## MP Table 2A: Fairfax sideline behaviour survey results

Behaviour	Percentage of respondents who had witnessed the behaviour
Constant or aggressive shouting	53%
Swearing or use of bad language	50%
Ridiculing	41%
Name calling	39%
Racial comments	25%
Threats of physical abuse	22%
Actual physical abuse	20%

## MP Table 2B: Fairfax sideline behaviour survey results

Behaviour	Percentage of respondents who admitted they were guilty of the behaviour
Ridiculing	13%
Constant or aggressive shouting	12%
Swearing or use of bad language	11%
Actual physical abuse	8%
Racial comments	7%
Threats of physical abuse	7%
Name calling	6%

37. Anecdotally, we have heard of drinking being commonplace on the sidelines of children's sport in some areas. Further, we have heard sport organisations and regional sports trusts have worked with sideline drinkers to reduce these behaviours.

38. It is important to stress that negative sideline behaviour is also prevalent in adult sport, right up to professional level.

### There are good initiatives underway

39. The Fairfax survey found 90 percent of respondents believed sideline behaviour was a problem at junior sports and 86 percent wanted more done to control disorderly spectators. Sport organisations and regional sports trusts agreed and have launched a number of initiatives around the country in the last few years. Some of these are discussed below.

### APPLAUD

40. APPLAUD is an NZ Rugby initiative to encourage schools and clubs to stamp out anti-social sideline behaviour. Clubs and schools are encouraged to register with APPLAUD to receive the APPLAUD resource pack. This includes posters, stickers, wristbands, a referee

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bib and activities. There are also a range of APPLAUD videos on the NZ Rugby website featuring All Blacks delivering positive messages.<sup>34</sup>

### *Sport Otago*

41. Sport Otago is a regional sports trust working across the Waitaki, Clutha and Central Otago areas. After some prominent sideline incidents, they decided to tackle negative sideline behaviour head on.
42. Efforts started with a visual, promotional campaign. 10,000 branded drink bottles were distributed with stickers containing a slogan about positive sideline behaviour. These have been distributed to all junior rugby and football players along with a bag and other items from their respective sport. Sport Otago also made three videos to illustrate the impact of positive sideline behaviour. They were viewed over 20,000 times within the first two weeks of release. The videos have been promoted through social and mainstream media. Sport Otago found this was a good start but recognised a more active approach would be more effective in changing sideline culture.
43. Sport Otago developed a card with key messages for referees and coaches to use when leading a talk regarding sideline behaviour with spectators, teams and support staff before games. This approach was trialled in under 12 and under 13 rugby and 12<sup>th</sup> and 13<sup>th</sup> grade football for the first time in winter 2018. The early results are encouraging. The pre-game talks are being applauded by those they are intended to influence. As more spectators hear the talks there is more self-policing of behaviour. Other sports have expressed interest in using the concept.
44. Sport NZ is encouraged by these early results and interested to see how the programme plays out in the longer term.

### *Good Sports*

45. Aktive – Auckland Sport and Recreation’s Good Sports programme is a culture change initiative aiming to create positive sporting experiences for children by educating and supporting the key adult influencers in youth sport: parents and caregivers, coaches, teachers and sport administrators. It began as a response to increasing recognition of poor sideline behaviour in the media around 2012 and in recognition of the impact that coaches have on children’s sporting experiences. The brief was widened to target all key adult influencers. Backed by Sport NZ, Good Sports involves the provision of courses and workshops to encourage a safe, supportive atmosphere at junior sport.<sup>35</sup> The programme operates on “train the trainer” model, i.e. equips parents and caregivers, coaches, teachers and sports administrators with tools to be agents for change and train others in the community. The programme aimed to have at least one “critical agent” at each organisation/ club.
46. It is worth noting that as Good Sports began, issues affecting children’s experiences in sport continued to arise in both the sector and the media including professionalisation and commercialisation of sport at younger ages, identity foreclosure,<sup>36</sup> burnout and overuse injury, early specialisation, children’s disaffection with sport and dropout. For more

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<sup>34</sup> <https://www.smallblacks.com/applaud/>

<sup>35</sup> <http://aktive.org.nz/good-sports/>

<sup>36</sup> Identity foreclosure is discussed in Chapter 3: Integrity issues in children’s sport. In a sporting context, it refers to a person who comes to see themselves solely as an athlete in a particular sport rather than as a well-rounded person with a range of interests and potential career pathways outside of sport.

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information on these issues please refer to the chapter covering integrity issues in children's sport.

- MP13** To what extent is poor sideline behaviour a problem in the sports you are involved with? Please explain your answer.
- MP14** Have clubs, regional sports trusts, national sport organisations or other bodies acted to improve sideline behaviour in your sports? What action was taken? Was it successful?
- MP15** Whose responsibility do you think it is to ensure good sideline behaviour?

### 3/3: The Health and Safety at Work Act 2015

This section sets out the provisions of the Health and Safety at Work Act that may be relevant to some sport organisations. It also notes Sport NZ offers a short online course for workers at any sport organisation, regardless of whether the legal obligations of the Health and Safety at Work Act apply.

47. The HSWA aims to protect workers and other persons against harm to their health, safety, and welfare by eliminating or minimising risks arising from work. Some sport organisations will have obligations under this Act.
48. WorkSafe is the primary regulator for the HSWA. It has a range of tools to promote compliance with the Act, including the ability to prosecute.

#### Some sport organisations have duties under the HSWA

49. An individual or organisation will have health and safety obligations under the HSWA if they are considered "a person conducting a business or undertaking (PCBU)" as defined under the HSWA. A PCBU will usually be a legal entity, but HSWA also makes it clear that it could be a body of persons.
50. A sport organisation will be a PCBU if it has at least one employee. This does not include sport organisations that contract workers without making them employees.
51. However, a volunteer association is not a PCBU. A volunteer association is a group of volunteers working together for one or more community purposes, where none of the volunteers, nor the association as a whole, employs anyone to carry out work for them. Community purposes could include sport.
52. In 2011 it was reported that New Zealand had 7,000 full time professional coaches, 66,000 part time paid coaches and 264,000 volunteer coaches.<sup>37</sup> This suggests many of our sports facilities and grounds are workplaces and, thereby, some of our sport organisations are PCBUs.

#### PCBU duties include the primary duty of care

53. A PCBU must ensure, so far as is reasonably practicable:
- the health and safety of workers

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<sup>37</sup> <https://sportnz.org.nz/assets/Uploads/SportNZ-CommunitySport-CoachingPlan-July2016.pdf>, page 5.

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- that other persons are not put at risk by its work.
54. This is called the 'primary duty of care'. This means ensuring, so far as is reasonably practicable:
- the health and safety of workers who work for the PCBU (e.g. employees or contractors, including their subcontractors or workers) while they are at work in the business or undertaking
  - the health and safety of workers whose work activities are influenced or directed by the PCBU while the workers are carrying out the work (e.g. a franchise company whose franchise requirements influence or direct the workers of the franchisee)
  - that other persons are not put at risk by the work of the business or undertaking (e.g. a visitor to the workplace, or members of the public who could be affected by a work activity).
55. A PCBU who is a self-employed person must also ensure, so far as is reasonably practicable, his or her own health and safety while at work.
56. The primary duty of care is a broad overarching duty. It includes, but is not limited to, so far as is reasonably practicable:
- providing and maintaining a work environment that is without risks to health and safety
  - providing and maintaining safe plant and structures
  - providing and maintaining safe systems of work
  - ensuring the safe use, handling and storage of plant, structures and substances
  - providing adequate facilities for the welfare at work of workers in carrying out work for the business or undertaking, including ensuring access to those facilities
  - providing any information, training, instruction, or supervision that is necessary to protect all persons from risks to their health and safety arising from work carried out as part of the conduct of the business or undertaking
  - monitoring the health of workers and the conditions at the workplace for the purpose of preventing injury or illness of workers arising from the conduct of the business or undertaking.
57. PCBUs must also maintain any worker accommodation that is owned or managed by the PCBU and provided because other accommodation is not reasonably available. The PCBU must, so far as is reasonably practicable, maintain the accommodation so the worker is not exposed to health and safety risks arising from the accommodation.
58. PCBUs cannot contract out of their duties, but can enter reasonable agreements with other PCBUs to meet their duties.

**MP16** To what extent are the sport organisations you are involved with aware of their obligations under the Health and Safety at Work Act? Please explain your answer. How did the sport organisations become aware of their obligations?

**MP17** To what extent are you confident the sport organisations you are involved with meet their obligations, if any, under the Health and Safety at Work Act? Please explain your answer.

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## Health and safety obligations for non-PCBUs

59. As noted above, many sport organisations will be volunteer associations rather than PCBUs, and thereby will not have the obligations of PCBUs under the HSWA. For volunteer associations, health and safety is left to their senses of obligation, risk aversion and common sense.
60. One way to mitigate health and safety risks is to train staff. Sport NZ offers a short online course<sup>38</sup> to help paid and volunteer workers in the sport and recreation sector:
- identify who is responsible for what when it comes to health and safety
  - identify their rights as a paid or volunteer worker
  - describe some of the systems and processes that are used to keep everyone safe and having fun
  - identify and manage hazards.

**MP18** What health and safety training do paid and volunteer workers receive in the sport organisations you are involved with?

**MP19** Do you have any other comments in relation to member protection?

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<sup>38</sup> <https://www.sporttutor.nz/pages/coursedescription.isf?courseId=111641&catalogId=268432>

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# Chapter 3: Integrity issues in children's sport

Integrity issues in children's sport extend beyond member protection for younger members. This chapter considers the policies and procedures in place to ensure the sporting environment accounts for the vulnerabilities and needs of children, and the corresponding risks. It considers the role adults play in creating the environment in which children play sport.

This chapter is written in two parts which reflect different themes. Part A is about protecting children from verbal, physical and sexual abuse. It focuses on the protocols suggested in the Sport NZ guidance document, Safe Sport for Children, and the legislation that protects against child abuse. As noted elsewhere in this document, large scale child abuse has occurred within sport organisations, enabled by cultures that protected it. This is completely unacceptable.

Part B considers the risks to sport integrity that arise when winning is prioritised over participation and fun. An undue focus on winning by parents, caregivers, coaches and others can lead to negative behaviours, including hurtful comments, unequal participation, favouritism and overtraining. Any of these negative behaviours can harm a child and may discourage them from participating in sport. Part B also considers secondary school sport, where increased professionalisation and commercialisation are creating new threats to sport integrity.

For the purposes of this chapter, "children" could be anyone under 18, unless otherwise stated.

## Part A: Protecting children from abuse

Part A considers the areas covered by Sport NZ's Safe Sport for Children guidance, including:

- Police vetting and criminal record checking
- risk assessments
- child protection policies
- education and training for adults working with children
- child protection officers
- responding to harm and supporting children and families who have been harmed.

Part A also considers the legislation relating to child abuse.

### A1/2: The Safe Sport for Children guidance helps minimise the risk of abuse

1. Safe Sport for Children is Sport NZ's guidance document on child protection (also known as safeguarding).<sup>39</sup> It takes a reasonably broad view of the risks to children's enjoyment of

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<sup>39</sup> <https://sportnz.org.nz/assets/Uploads/attachments/managing-sport/young-people/Safe-Sport-for-Children.pdf>

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sport, but primarily focuses on minimising the risk of children being physically or sexually abused.

2. Safe Sport for Children is structured around four steps as set out below.

**Step 1: Preventing those who have been identified as causing harm to children from having contact with children in your sport**

3. Step 1 contains guidance on recruiting the right people to work with children. This step recommends that a recruitment process entail:

- creating a role description
- checking referees
- interviewing
- screening through a Police vet and/or criminal record check.

*Police vetting*

4. Police vetting is part of the screening process but should not constitute an organisation's complete response to keeping children safe. Police vetting will provide an organisation with a judgement by the Police about a person's suitability to work with children based on the information it holds – a 'red flag' rather than detailed information. At the time of writing, a police vetting request incurs a fee of \$8.50 + GST. However, there are various exemptions from this fee. For example, if the organisation makes fewer than 21 requests per year or is a registered charity it will not be charged the fee. For more on Police vetting please see this website: <http://www.police.govt.nz/advice/businesses-and-organisations/vetting>.

5. We understand some NSOs have been absorbing the cost of the vetting for coaches under their infrastructure. This can be expensive, particularly for larger sports with over 10,000 coaches of children.

6. We also understand that clear policies are needed for considering the results of Police vets that show a previous interaction with Police. Some previous actions clearly make a person unsuitable for working with children, e.g. a conviction for sexually abusing a child. Other previous interactions with Police may suggest a person can still work with children (but you may want to restrict their organisational involvement in other ways, e.g. drunk driving). Organisations need to be confident in dealing with the information they receive through Police vetting.

*Criminal record checks*

7. The Ministry of Justice can provide a copy of a person's criminal record that lists criminal and traffic convictions and sentencing from court appearances. This is different from a Police vet and only lists their criminal convictions. Before requesting such information about a person, an organisation must have the authorisation of that person to receive copies of their criminal convictions.

8. We have heard that some adults volunteering with children have been through vetting processes for their line of work, e.g. teachers and Police officers. Some have argued it is overly onerous to require these individuals to be checked again by a sport organisation.

9. An organisation wanting to hold information from a criminal record check or Police vet will need a privacy statement. A privacy statement tells people how an organisation will be collecting, using and disclosing their information. A good privacy statement is important because New Zealand agencies/organisations are required by law to be transparent about how, when and why they collect personal information. The Privacy Commissioner offers

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*Priv-o-matic*, an online privacy statement generator.<sup>40</sup> Questions about privacy and holding information should be directed to the Office of the Privacy Commissioner which can be contacted on 0800 803 909.

10. Organisations should also consider how regularly they undertake Police vetting and criminal record checking.

<b>CP1</b>	Do the sport organisations you or your children are involved with use police vetting as part of their recruitment processes for employees or volunteers working with children? If not, why not?
<b>CP2</b>	Do you have any comments on the process for obtaining Police vets?
<b>CP3</b>	Do the sport organisations you or your children are involved with use criminal record checks as part of their recruitment processes for employees or volunteers working with children? If not, why not?
<b>CP4</b>	Do you have any comments on the process for obtaining criminal record checks?

## Step 2: remove/minimise any risks of, and opportunities for, harm to children

### *Risk assessments*

11. This step encourages an organisation to undertake a risk assessment as the first step of identifying and managing risks relating to children. A risk assessment self-audit template is provided in *Safe Sport for Children*. A Standards New Zealand publication, HB246.2010 *Managing Risk in Sport and Recreation Organisations*, can be obtained to provide a framework and outline a process for managing risk. *Child Matters*<sup>41</sup> *Child Protection Guide* also includes a brief questionnaire that allows an organisation to evaluate the types of processes and systems it already has and identify any gaps.

<b>CP5</b>	How often do the sport organisations you or your children are involved with conduct a risk assessment in relation to child protection? Which risk assessment tool was used, if any? How did you find it?
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### *Child protection policies*

12. Organisations working with children should have a child protection policy. At a minimum, a child protection policy should include:
- the scope and objectives of the policy and the rationale for having a policy
  - the procedures to be followed in order to implement the policy
  - an outline of the roles and responsibilities of different parties
  - the policy review date.
13. Child protection policies should contain protocols for touching as a part of coaching. Sports involve set techniques which appropriate touching can help athletes to learn. Sport

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<sup>40</sup> <https://www.privacy.org.nz/further-resources/privacy-statement-generator/>

<sup>41</sup> [www.childmatters.org.nz](http://www.childmatters.org.nz)

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organisations also need to minimise the time adults are alone with children. Managing these higher risk situations is particularly pertinent for some sports, or some organisations, which may involve some or all of:

- a larger proportion of young athletes
- a higher likelihood of one-on-one coaching given the nature of individual sports
- a larger amount of vulnerability given the physical requirements of the sport, e.g. sports that require spotting, lifting athletes, or physical direction that should be conducted in accordance with appropriate protocols.

14. A child protection policy template and guidance is provided in Safe Sport for Children. We are aware of a number of NSOs who have adopted this material to make their own policies.

#### CP6

Do the sport organisations you or your children are involved with have child protection policies? If so, do they draw from the template and guidance in Safe Sport for Children? Do they incorporate any additional areas that could be useful to note in the guidance?

#### *Education and training for staff*

15. Safe Sport for Children recommends education be provided to staff and volunteers on what they can do to:

- minimise the risk that their actions or inactions cause harm to any child
- limit their risk of being the target of allegations and complaints.

16. Education and training of staff and volunteers will help your organisation:

- recognise the risks inherent in the sport
- recognise when children are at risk and from what
- take appropriate precautions to manage and limit identified risks
- respond in an appropriate manner to children who have been harmed or are suspected of being harmed
- understand their responsibilities in relation to keeping children safe both in terms of prevention and management of cases that may arise.

17. Safe Sport for Children suggests induction is an ideal time to introduce child protection training and to cover the procedures set out within a child protection policy. It is also important that staff/volunteers receive ongoing education and training to keep up-to-date with any changes to the law or internal processes for managing incidents of harm to children.

18. Safe Sport for Children recommends a child protection policy state why education and training of staff and volunteers is important and how an organisation will carry this out, including what training is required and for whom, when training happens and who will provide the training.

19. Sport NZ is aware some children have particular needs that may affect the interactions they have with adults. For example, children with attention deficit hyperactivity disorder, autism, foetal alcohol spectrum disorder and similar conditions may present challenging behaviours

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for coaches. Similarly, an action like shouting could act as a trigger for a child who has been subject to trauma.

**CP7** What training do the sport organisations you are involved with provide staff and volunteers in regard to child protection? To what extent are staff and volunteers trained to work with the full range of children who play sport?

### Step 3: Identify and stop inappropriate behaviour if it occurs

20. Harmful behaviour can occur from adults working with children, other children, supporters or even the child themselves. Therefore, those involved with sport organisations need to be vigilant for harmful behaviour and able to respond if it does occur.

#### *Child protection officers*

21. Safe Sport for Children recommends appointing a child protection officer (CPO). The CPO manages child protection issues within an organisation. Their main duties/responsibilities would include:

- ensuring that child protection policies and procedures are understood and adhered to by all members
- organising promotional activities, training and raising awareness within the organisation
- establishing and maintaining the complaints procedure
- reporting to the Board/Executive Committee/Management as appropriate
- acting as the main contact and support for child protection matters
- keeping up-to-date with developments in child protection legislation
- liaising with local child protection agencies as required
- maintaining confidential records of reported cases and any action taken
- regularly monitoring and reviewing existing policies and procedures.

**CP8** Do the sport organisations you or your children are involved with have a Child Protection Officer or someone with responsibility for child protection issues? Is their role well-publicised throughout your organisation? What training have they had? *If you are a Child Protection Officer please answer in regard to yourself.*

#### *Responding to harmful behaviour*

22. Organisations should have a process in place for responding to harmful behaviour. It needs to be clear to everyone involved:

- who has a role in investigating
- what process will be followed for each type of allegation or incident
- how decisions are made to discipline where breaches of standards or abuse occurs.

23. The reaction to harmful behaviour should be proportionate to the harm caused by the behaviour. There is a range of options for responding to harmful behaviour. At the lighter end, a CPO could bring minor harm to the attention of the antagonist and agree ways to

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avoid the harmful behaviour occurring again. More serious behaviour could entail a ban from the sport or a referral to the Police or Oranga Tamariki.

24. Appendix 1 in Safe Sport for Children contains a sample process for responding to suspected or disclosed harm in the form of physical or sexual abuse.

<b>CP9</b>	Are you confident your Child Protection Officer and/or sport organisations' leaders would know what to do if an issue was raised? Please explain your answer. <i>If you are a Child Protection Officer or a sport organisation leader please answer in regard to yourself.</i>
<b>CP10</b>	Do the sport organisations you or your children are involved with have mechanisms for handling child protection matters? Please explain your answer.
<b>CP11</b>	Do you trust the sport organisations you or your children are involved with to handle child protection matters appropriately and effectively? Please explain your answer.
<b>CP12</b>	How many child protection issues have occurred in the last five years in the sport organisation you or your children are most involved with? Please provide details as you are willing. What measures has the sport organisation taken to ensure the same issue or issues do not arise again?
<b>CP13</b>	If a child protection issue needs to be escalated beyond a sport organisation you or your children are involved with do you know who to contact?

#### **Step 4: Support the child and the family should a child be harmed**

25. As noted above, the Police and Oranga Tamariki should be notified in instances of serious harm, or suspected serious harm to children. However, there are other organisations that can provide support including:

- ACC by providing financial support where a child has been physically harmed or approved counsellors for children who have been sexually abused
- Citizen's Advice Bureau by providing details of local crisis counselling services
- Child Matters is a registered charitable trust that provides training programmes, seminars and workshops on child harm, as well as advice and resources
- Jigsaw Family Services is a national organisation focused on the wellbeing of New Zealand children and their families
- KidsLine is New Zealand's only 24-hour helpline for children and provides trained counsellors
- Youthline is a free telephone counselling service for young people (aged 12-18 years)
- Iwi Social Services.

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## Sport NZ welcomes any other comments on Safe Sport for Children

26. Sport NZ is aware some of the content relating to legislation is out of date due to legislative changes.<sup>42</sup> Sport NZ will update the guidance in due course and consider any feedback from submitters in the process.

**CP14** Were you aware of the Safe Sport for Children guidance before beginning this consultation process? If so, how were you made aware?

**CP15** Do you have any other comments on Safe Sport for Children? What parts have you found useful? Is there anything you would like to see included in Safe Sport for Children that is not included already?

## A2/2: Legislation that protects against abuse of children

27. Sporting environments pose some specific risks for children. For example, physical contact can be part of legitimate coaching technique. However, this type of touching could also be misused to build trust and break down barriers to facilitate illegitimate touching. Children are often driven around by adults and can go on overnight stays for games, training camps and tournaments. This can mean that children are in the care of adults who are not their parents or caregivers, presenting the opportunity for possible abuse. The legislative protections against child abuse are noted below.

### Vulnerable Children Act 2014

28. The purpose of Part 3 of this Act is to “reduce the risk of harm to children by requiring people employed or engaged in work that involves regular or overnight contact with children to be safety checked”.

29. This obligation is imposed on specified organisations.<sup>43</sup> Specified organisations are required to do safety checks before employing or engaging a children’s worker (section 25) and must safety check its existing children’s workers (section 26).

30. There is a prohibition on a specified organisation employing or engaging a person as a “core worker” if:

- they have been convicted of a specified offence (e.g. sections 128B (sexual violation), 130 (incest), 132 (sexual conduct with child under 12), 188 (wounding with intent), etc of the Crimes Act 1961)
- they do not hold an exemption granted under section 35.

31. Significant fines may be imposed by the Courts if the above obligations are not complied with (sections 25 to 28).

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<sup>42</sup> For example, Safe Sport for Children refers to the Health and Safety in Employment Act 1992, which has been replaced by the Health and Safety at Work Act 2015. It also refers to the Vulnerable Children Bill which was enacted in 2014.

<sup>43</sup> Specified organisations are defined in section 24 of the Vulnerable Children Act and include any of the following that employs or engages a children’s worker to perform a regulated service:

- any of the State services or local authorities
- an individual or organisation that is funded (whether wholly or partly and whether directly or indirectly) by a State service or local authority to provide regulated services.

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## Crimes Act 1961

32. With specific regard to children, the key purpose of the Crimes Act is to ensure that children are adequately protected from assault, neglect and ill-treatment.

33. Section 152 provides that:

*Every one (sic) who is a parent, or is a person in place of a parent, who has actual care or charge of a child under the age of 18 years is under a legal duty—*

*(a) to provide that child with necessaries; and*

*(b) to take reasonable steps to protect that child from injury.*

34. 'A person in place of a parent' is not defined in the Act, it appears possible that sports club personnel could at times be considered to be 'a person in place of a parent', for example, when taking children away to an event or tournament.

35. The Act also compels people who live with a child and those who are in frequent contact with children and know, or ought to know, that the child is at risk of death, grievous bodily harm or sexual assault to take reasonable steps to protect the child from that risk.

36. The Crimes Act is administered by the Ministry of Justice and implemented by the Police.

## Oranga Tamariki Act 1989

37. Section 15 of this Act provides that:

*Any person who believes that any child or young person has been, or is likely to be, harmed (whether physically, emotionally, or sexually), ill-treated, abused, neglected, or deprived may report the matter to the chief executive or a constable.<sup>44</sup>*

38. The "chief executive" refers to the chief executive of Oranga Tamariki. In practice this means reporting to that agency. The chief executive's key duties are set out in section 7 of the Oranga Tamariki Act.

39. Section 16 of the Oranga Tamariki Act protects a person reporting ill-treatment or neglect of a child or young person from civil, criminal or disciplinary proceedings, unless the information was disclosed or supplied in bad faith. The Privacy Commissioner has released guidance regarding the release of personal information to Police or law enforcement agencies which may also be relevant when reporting ill-treatment or neglect.<sup>45</sup>

40. If you are worried about a child please contact the appropriate authorities. If a child or young person you know is in immediate danger call the Police on 111. To contact Oranga Tamariki you can ring 0508 326 459 free of charge at any time of the day or night or email [contact@ot.govt.nz](mailto:contact@ot.govt.nz). After 5pm and on weekends social workers are only available for emergency situations, but we still urge you to call so Oranga Tamariki can assess your needs.

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<sup>44</sup> <http://www.legislation.govt.nz/act/public/1989/0024/121.0/DLM149467.html>

<sup>45</sup> <https://www.privacy.org.nz/assets/Files/Reports/October-2017-Final-Guidance-on-releasing-personal-information-to-Police-and-law-enforcement-agencies-Principle-11f-and-ei.pdf>

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**CP16** *Please only answer this question if you are making a submission on behalf of a sport organisation*

To what extent is your sport organisation aware of its obligations regarding children under the Vulnerable Children Act, Crimes Act and Oranga Tamariki Act? Please explain your answer. How did your organisation become aware of its obligations?

**CP17** *Please only answer this question if you are making a submission on behalf of a sport organisation*

To what extent does your organisation fulfil its legal obligations regarding children under the Vulnerable Children Act, Crimes Act and Oranga Tamariki Act? Please explain your answer.

### **Vulnerable adults**

41. Vulnerable adults are those who are unable to care for themselves and/or protect themselves against harm or exploitation. This could be due to age, illness, trauma, disability, or for any other reason. Sport NZ wants to encourage New Zealanders to access and realise the benefits of participating in sport and this includes vulnerable adults.
42. Sport NZ is considering diversity and inclusion, and disability sport, in separate workstreams. Therefore, we will not ask questions about the inclusion of vulnerable adults in your sport. However, we thought it was important to note that some sport organisations draw links between protections for children and vulnerable adults in their policies.

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## Part B: The risks of putting winning ahead of participation and fun

When winning is overly prioritised by parents, caregivers, coaches and others, there is a risk that children will be deterred from playing sport and miss out on the benefits from being active. This Part considers the ways this manifests in children's sport and includes:

- the importance of fun in children's sport and the behaviours of adults that undermine a focus on fun
- the role of coaches and the training they receive
- the risks of early specialisation
- the changing landscape of secondary school sport, including:
  - the risks posed by increased professionalisation and commercialisation for elite secondary school athletes
  - the change in participation levels witnessed at secondary school.

### B1/4: Good Practice Principles for the Provision of Sport and Recreation for Young People

43. Sport NZ has provided the Good Practice Principles for the Provision of Sport and Recreation for Young People. This document sets out 10 principles for delivering sport and recreation to children (defined as those aged 0-12 years) and young people (defined as 13-18 years). These principles should be applied by coaches, parents and caregivers, instructors, teachers and administrators involved in leading, supporting or managing sport and recreation opportunities for children and young people.

44. The ten principles are:

- create a safe social and physical environment
- treat children and young people with dignity and respect
- model good behaviour and values
- be consistent
- become familiar with developmental ages and stages
- let children play
- ensure there is full participation and inclusion
- modify or adapt activities to suit the ability of participants
- provide an appropriate amount of activity
- prepare children and young people to compete successfully.<sup>46</sup>

45. Research shows children will not enjoy participating in sports where:

- there is an over-emphasis on winning by parents, caregivers and coaches

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<sup>46</sup> <https://sportnz.org.nz/assets/Uploads/attachments/managing-sport/young-people/Good-Practice-Principles-for-the-Provision-of-Sport-and-Recreation-for-Young-People.pdf>

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- only the best players get to play/participate consistently
  - some participants are favoured over others
  - they cannot participate with their friends
  - they do not have enough fun.

**CP18**

To what extent is there an undue emphasis on winning in children's sport in the sport organisations you or your children are involved with? If there is an undue emphasis, who is driving that attitude, e.g. parents and caregivers, coaches, administrators, other young athletes, etc? Please explain your answer.

**B2/4: Coaches play an important role**

46. Coaches of children have an important role in providing a healthy environment for children's sport. This includes:

- ensuring a safe physical environment
- being able to improve an athlete's skills from an age where this is appropriate
- making sure children have fun.

47. To make sure children have fun, coaches need to:

- ensure children in their teams get fair game time, regardless of ability
- avoid favouritism
- create an environment where the children feel they are on good terms with the coach
- ensure their athletes do not feel unsafe or in danger.

**Sport Tutor education for coaches**

48. Sport NZ provides the *Getting started in coaching* module for new coaches through the Sport Tutor online platform.<sup>47</sup> The purpose of the module is to give new coaches some general information about how to coach young or beginner participants. The module aims to increase coach confidence and inspire coaches to continue to learn more about coaching and provide a fun and quality experience to new athletes. Only 111 people had completed the *Getting started in coaching* module in the year to May 2018.

49. The Sport Tutor platform also hosts the *Coaching Safety Net* module. This module aims to help new coaches create a safe sporting environment so participants, particularly beginners, can enjoy partaking in sport.

**CP19**

What training or induction do coaches of children in your sport receive in the sport organisations you or your children are involved with?

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<sup>47</sup> <https://www.sporttutor.nz/pages/coursedescription.isf?courseId=141395>

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### B3/4: Early specialisation and workload management

50. Research tells us that when young people have diverse sporting experiences they develop transferable skills, greater creativity and better decision-making capabilities. On the other hand, specialisation in a single sport at an early age entails the following risks:
- increased chance of injuries, particularly from overuse or repetition
  - worse overall athletes
  - increased likelihood of athletes being put off a sport through burnout or boredom
  - the creation of a high barrier to participation, excluding children who might otherwise succeed in a more open system.<sup>48</sup>
51. A range of actors have all contributed to unhealthy early specialisation in the past. Some parents have pushed their children down a particular path, wanting them to be the next Lydia Ko or Richie McCaw. Professional sport is now seen as a desirable and lucrative career path for some New Zealanders. This has led to sporting academies and specialist training being offered in and outside of schools, including to younger children. Coaches at specialist institutions or academy programmes want to keep their jobs. If they win championships and have players selected for higher honours they look like a good coach, and the institutions they work at look prestigious. This system is self-reinforcing: each component needs the others.
52. All of this means young athletes can have a fitness session, a school team training and a representative team training in a single day, with a similarly busy schedule of training and competition through the rest of the week, every week. Contrary to intuition, there is a good chance that this will not make a young athlete better at the sport they are specialising in.
53. Research in New Zealand has found that early specialisation is the most prevalent reason for sports injuries in children.<sup>49</sup> This includes serious injuries traditionally found in older athletes like ruptures of the anterior cruciate ligament.
54. Many top athletes spent their formative years playing sports that did not make them household names. Roger Federer and Kobe Bryant played soccer until early adolescence. K J Choi was a power lifter until he took to golf at age 16. A 2013 American Medical Society for Sports Medicine survey found that 88% of college athletes surveyed participated in more than one sport as a child.<sup>50</sup> Closer to home, All Black Israel Dagg grew up playing cricket, Black Cap Brendon McCullum played rugby, and Lisa Carrington took up surf life saving. Playing a range of sports develops a range of muscles, skills and ways of thinking, all of which can be applied across fields. Those playing multiple sports also develop a sense of how to learn and apply knowledge to different situations.
55. Athletes involved in multiple sports also avoid the pressure that comes with early specialisation. Early specialisation suggests an athlete's potential career, prestige and identity rest on the ability to succeed in one sport. Avoiding this can benefit a young athlete's mental health and decrease the pressure to look for an edge that may threaten sport integrity, e.g. use supplements or performance enhancing substances.

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<sup>48</sup> <http://aktive.org.nz/the-trend-towards-early-specialisation/>

<sup>49</sup> <http://www.tewahanui.nz/health/over-training-of-young-athletes-contributing-to-injuries-and-burnout>

<sup>50</sup> [https://www.netballnorthern.co.nz/images/stories/zones/Northern/Documents\\_/2017/Is\\_it\\_wise\\_to\\_specialize.pdf](https://www.netballnorthern.co.nz/images/stories/zones/Northern/Documents_/2017/Is_it_wise_to_specialize.pdf)

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## Some NSOs have initiatives in place to manage the workload of young athletes

56. Netball NZ has produced Player Development Guidelines.<sup>51</sup> The Guidelines recommend a maximum workload for athletes from age 5 to adulthood. They also suggest younger athletes participate in a broad range of activities and do not recommend specialising solely in netball until age 19. The Guidelines also include tournament recommendations, i.e. the maximum duration and playing time at tournaments for athletes of a certain age.
57. NZ Cricket imposes restrictions on the workload of young bowlers up to age 19. A rest day has been added to secondary school tournaments to ease the strain on players, particularly bowlers. Bowlers are also allowed to bowl a maximum of 40 overs across the five matches in the tournaments in order to prevent overuse.
58. A number of NSOs we have spoken to are now raising the age at which they first offer representative opportunities to children. Through this action they are aiming to keep the focus of junior sport on having fun rather than winning for a longer period.
59. ACC is currently working with leading NSOs and international experts on the development of a New Zealand Consensus Statement on Youth Loading. This will be available by the end of 2018 on [www.accsportsmart.co.nz](http://www.accsportsmart.co.nz).

<b>CP20</b>	To what extent is early specialisation a problem in your sport? What specific evidence of early specialisation have you seen? Please explain your answer.
<b>CP21</b>	Whose responsibility is it to avoid early specialisation? Please explain your answer.
<b>CP22</b>	To what extent is over-training a problem for children and young people in your sport? Please explain your answer.
<b>CP23</b>	Whose responsibility is it to avoid the over-training of children and young people? Please explain your answer.

## B4/4: Secondary school sport

60. This section considers sport integrity issues for two groups of secondary school students:
- those in development pathways such as academies
  - those who start to develop less active lifestyles in secondary school which continue into adulthood.

### High performance secondary school sport

61. Some teenagers become deeply involved in sport, often through academies run through secondary schools. These development pathways have some benefits. For example, they provide a possible career path for a small number of students and give some a reason to stay at school. However, these programmes also come with risks, e.g.

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<sup>51</sup> Link to PDF available at: <http://www.netballnz.co.nz/high-performance/pathway/about>

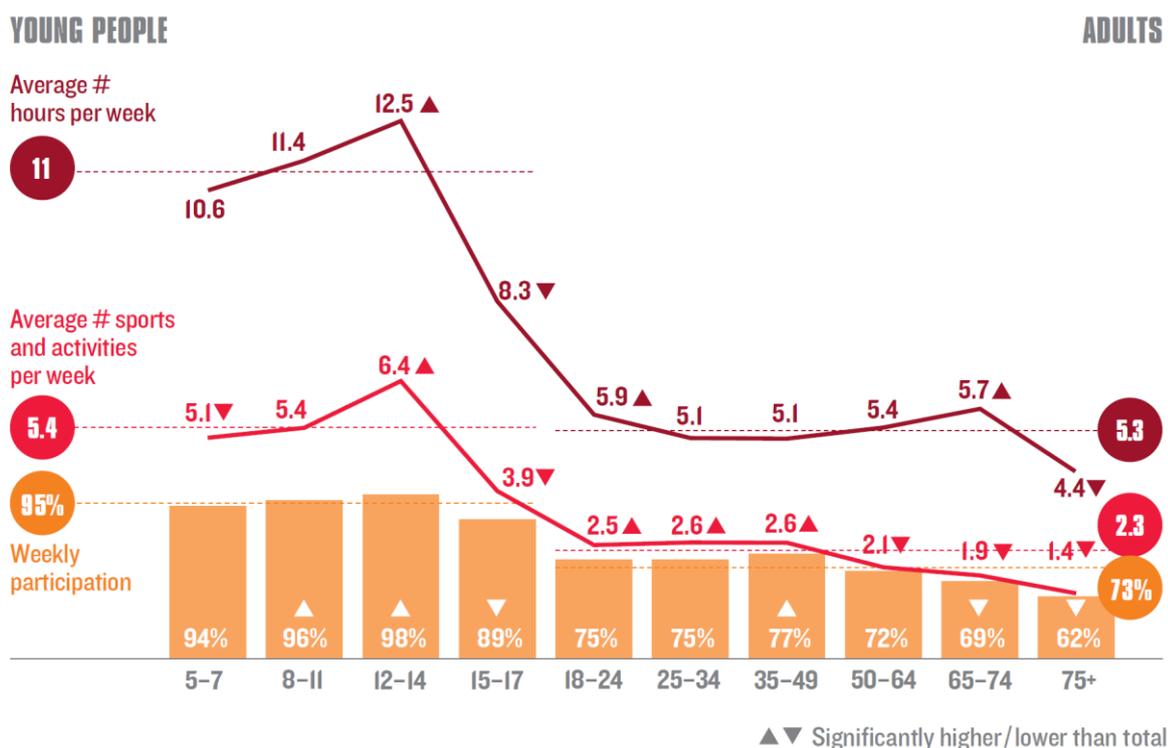
- 
- the increasing professionalisation and commercialisation of sport at younger ages (and the way this creates a pressure to perform which can drive over-training, over-use injuries, risky supplement use, and other behaviours that threaten sport integrity)
  - identity foreclosure (where a person comes to see themselves solely as an athlete in a particular sport rather than as a well-rounded person with a range of interests and potential career pathways outside of sport)
  - burnout, disaffection with sport and dropout.
62. Elite secondary school sport is now characterised by quasi-professional development environments and fierce competition for both results and talented athletes. Students are enticed to schools with lucrative scholarships. Some secondary school sport is broadcast on television. Agents and talent scouts have been seen on the sidelines of intermediate school fixtures and approached adolescents, attempting to procure their loyalty for their high school years and beyond.
63. This increasing professionalism of elite secondary school sport has risks which are potentially serious. We have heard that:
- Secondary school athletes are more likely to use risky supplements in an attempt to attain an ideal body shape for their sport. They may be encouraged or supplied by coaches, parents, caregivers and others.
  - Students who have risen through the ranks of the system within their school can feel aggrieved when schools procure talented athletes from other schools for their top teams.
  - Students become compelled to train and work out a lot, potentially to the detriment of academia and other interests, or their health.
  - Televising secondary school sport increases the risk of match-fixing involving younger athletes with less education (if any) in match-fixing.
  - Secondary school sport is becoming an arms race where the better resourced schools are best placed to compete at the highest secondary school level (and provide more athletes to the elite level, post-secondary school).
64. Another effect of the development pathway is that adolescents are labelled as “rugby players”, “netball players”, or players of another sport. They can start to view themselves in these terms. This is known as “identity foreclosure”, i.e. where a person defines their identity narrowly and blocks out other factors that would round out their personality. This entails the risk of putting “all the eggs in one basket”. If an athlete gets injured, hits their ceiling in their sport, or retires, their whole sense of identity can be at risk. Being a well-rounded individual also has benefits in its own right. Schools should aim to prepare people for the adult world, not just sport.
65. Early specialisation and overuse injury is covered above, in section B3. It is a particularly high risk in the elite secondary school context where training and workout expectations can be high. The risk rises for players who are obliged to train and front for a school, a regional representative team, and potentially a club or a national team as well. The same factors create a risk of player burnout, disaffection and dropout.

## Some students develop less active lifestyles at secondary school

66. Sport NZ research shows people aged 15 – 17 are most likely to reduce the amount of sport and physical activity in their lifestyle, beginning a trend that will continue into adulthood. Between ages 5 and 14, there is an increase in:

- the average number of hours each week a person spends participating in sport and/or physical activity
- the average number of sports and/or physical activities a person participates in
- the percentage of people participating in at least one session of sport and/or physical activity.

**CP Figure 1: Participation in sport and physical activity in stages of life**



67. As the graph shows, the early secondary school years are marked by the highest participation rates throughout the life course. However, these metrics decrease significantly for 15 – 17-year olds who participate less and in a smaller range of sports and activities.

68. Some of this drop off in participation is attributable to simple factors. For example, part of the explanation is that physical education (PE) becomes optional after year 10. Seventy-one percent of 12 – 14-year olds were active in PE. This reduces to 53 percent when PE becomes optional in year 11 and continues to reduce as PE becomes more academic and more young people leave school. Other factors in the reduced participation of older teenagers include the competing demands of academia, paid work, social lives and other activities. Adolescence is also a period where young people become aware of being “cool”, attractive and fitting in. If organised sport is seen as uncool the participation of teenagers may decrease.

69. This document considers the sport integrity issues that discourage participation in secondary school students.

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**CP24** To what extent are the following a problem in elite secondary school sport:

- increasing professionalisation and commercialisation?
- identity foreclosure?
- early specialisation and overuse injury?
- burnout, disaffection with sport and dropout?

Please explain your answer.

**CP25** Whose responsibility is it to avoid sport integrity issues in elite secondary school sport?

**CP26** To what extent are sport integrity issues discouraging participation in general sport and physical activity within secondary schools? Please explain your answer.

**CP27** Whose responsibility is it to uphold sport integrity in general secondary school sport?

**CP28** Do you have any other comments in relation to integrity issues in children's sport?

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# Chapter 4: Anti-doping

## What is doping?

1. According to the United Nations Educational, Scientific and Cultural Organization (UNESCO):

*'Doping' refers to an athlete's use of prohibited drugs or methods to improve training and sporting results. Steroids are the drugs that often come to mind when we talk about doping, but doping also includes an athlete's use of other forbidden drugs (such as stimulants, hormones, diuretics, narcotics and marijuana), use of forbidden methods (such as blood transfusions or gene doping), and even the refusal to take a drug test or an attempt to tamper with doping controls.<sup>52</sup>*

2. Doping poses a direct threat to the integrity of sport and the fundamental principle of “fair play” by allowing athletes to gain an unfair advantage and circumvent hard work and training discipline. Doping can also pose a significant health risk to the individuals involved, including addiction in some cases.

This chapter is set out in two parts. Part A considers the institutional infrastructure for anti-doping, i.e.

- the World Anti-Doping Agency (WADA) framework that governs anti-doping efforts around the world, including the World Anti-Doping Code
- the way the WADA Code is implemented in New Zealand by Drug Free Sport New Zealand (DFSNZ) and the Sports Anti-Doping Rules (SADR)
- the activities undertaken by DFSNZ to counter doping and promote clean sport and the resourcing of DFSNZ to undertake its activities
- the role of other organisations including the New Zealand Sports Tribunal, New Zealand Rugby Judicial Committee, Medsafe and the Police.

Part B considers aspects of the current anti-doping environment, i.e.

- datasets that hold some clues as to the prevalence of doping in New Zealand
- the risks of supplements and sports foods containing prohibited substances
- the therapeutic use exemption (TUE) regime.

## Common prohibited substances

3. This chapter will mention prohibited substances as necessary. Some common substances that are prohibited in sport are described in the table in Annex 1.

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<sup>52</sup> <http://www.unesco.org/new/en/social-and-human-sciences/themes/anti-doping/youth-space/what-is-doping/>

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## Part A: the institutional infrastructure for anti-doping

### A1/4: WADA sets the World Anti-Doping Code

This section describes the international framework that sets the legal obligations for anti-doping around the world.

4. The World Anti-Doping Code (the Code) is the core document that harmonises anti-doping policies, rules and regulations within sport organisations and among public authorities (governments) around the world. This harmonisation aims to achieve a level playing field by ensuring that athletes are subject to the same rules and procedures no matter where in the world they train or compete.
5. More than 660 sport organisations have accepted the Code, including the International Olympic Committee (IOC), the International Paralympic Committee, International Federations, National Olympic and Paralympic Committees, and National Anti-Doping Organizations. The New Zealand signatories to the Code are Drug Free Sport New Zealand (DFSNZ), the New Zealand Olympic Committee and Paralympics New Zealand. The full list of signatories is available on the WADA website.<sup>53</sup>
6. Signatories are required to accept, implement and enforce the Code.
  - Code **acceptance** means that a Signatory agrees to the principles of the Code and agrees to implement and comply with the Code.
  - the **implementation** of the Code is the process that an anti-doping organisation goes through to amend its rules and policies so that all mandatory articles and principles of the Code are included. WADA offers model rules to assist stakeholders with complying with the Code.
  - **enforcement** refers to a Signatory actually imposing its amended rules and policies in accordance with the Code.

#### The Code works in conjunction with six international standards<sup>54</sup>

7. In order to embed the harmonisation the Code seeks to achieve, it relies on six international standards. The international standards are mandatory for all Signatories. In general terms, the international standards set out important detail that is not covered within the Code.
8. The **List of Prohibited Substances and Methods**<sup>55</sup> is probably the most important. The List identifies the substances and methods prohibited in- and out-of-competition, and in particular sports.
9. The other standards relate to:
  - The operation of **testing and investigations**, including practices to maintain the identity and integrity of samples
  - The operation of WADA-accredited **laboratories** to ensure production of valid test results

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<sup>53</sup> <https://www.wada-ama.org/en/what-we-do/the-code/code-signatories>

<sup>54</sup> <https://www.wada-ama.org/en/international-standards>

<sup>55</sup> <https://www.wada-ama.org/en/what-we-do/the-prohibited-list>

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- **Therapeutic use exemptions** (TUEs), to ensure that athletes with genuine medical problems have access to appropriate treatment under agreed clinical guidelines
  - The protection of **privacy and personal information**
  - Code **compliance** by signatories and WADA monitoring of this compliance.

### Anti-doping rule violations

10. While a general definition of doping is provided above, a more technical definition is in Article 1 of the Code which states:

*Doping is defined as the occurrence of one or more of the anti-doping rule violations set forth in Article 2.1 through Article 2.10 of the Code.*<sup>56</sup>

11. Articles 2.1 through 2.10 specify the circumstances and conduct which constitute anti-doping rule violations (ADRVs). The Code puts the onus on athletes and other persons to be responsible for knowing what constitutes an ADRV and what substances are on the prohibited list.

12. The ADRVs are:

- presence of a prohibited substance or its metabolites or markers (biological indicators) in an athlete's sample
- use or attempted use by an athlete of a prohibited substance or a prohibited method
- evading, refusing or failing to submit sample collection
- whereabouts failures, i.e. any combination of three missed tests and/or filing failures within a 12-month period by an athlete in a registered testing pool (RTP)<sup>57</sup>
- tampering or attempted tampering with any part of the doping control process, including any attempt to interfere with a doping control official, providing fraudulent information, or intimidating or attempting to intimidate a witness
- possession of a prohibited substance or a prohibited method unless a TUE is granted
- trafficking or attempted trafficking in any prohibited substance or prohibited method
- administration or attempted administration to any athlete of any prohibited substance or prohibited method
- complicity, i.e. assisting, encouraging, aiding, abetting, conspiring, covering up or any other type of intentional complicity involving an ADRV, attempted ADRV, or an attempt to participate while prohibited from competition
- prohibited association, i.e. association with any athlete support person who is ineligible under the Code, would be ineligible under the Code if it applied to their conduct, or is acting as a front for such an athlete support person.

13. It is important to note that ADRVs are different to breaches of the criminal law. The sanction for an ADRV usually includes a ban from sport for a certain period of time. Breaching a criminal law will usually involve the person receiving a conviction and a possible term of imprisonment.

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<sup>56</sup> [https://www.wada-ama.org/sites/default/files/resources/files/wada\\_anti-doping\\_code\\_2018\\_english\\_final.pdf](https://www.wada-ama.org/sites/default/files/resources/files/wada_anti-doping_code_2018_english_final.pdf)

<sup>57</sup> The RTP is a pool of highest priority athletes who are subject to focussed testing and are required to report on their whereabouts (so they can be tested without notice). It differs from the national testing pool (NTP) which is a pool of elite athletes in a country who are not in the RTP.

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14. As will be shown below, ADRVs are one measure for tracking the presence and nature of doping in sport over time.

#### **A2/4: DFSNZ is responsible for implementing the Code in New Zealand**

This section describes the legal mechanism by which DFSNZ is able to implement the Code in New Zealand.

15. The Sports Anti-Doping Act 2006<sup>58</sup> requires DFSNZ to give effect to the World Anti-Doping Code in New Zealand.
16. DFSNZ does this by making New Zealand's Sports Anti-Doping Rules (SADR), which directly reflect the Code.<sup>59</sup> The SADR implement the WADA requirements in the New Zealand context.
17. NSOs must recognise and adopt the SADR in their constitutions or rules in order for their members to be bound by the SADR (and Code) and in order to receive government funding. Sport NZ and High Performance Sport NZ's (HPSNZ's) funding agreement with the NSOs also requires the NSOs to properly adopt the SADR. It is unclear currently whether all NSOs have appropriately adopted the SADR. For the avoidance of doubt, DFSNZ cannot act against a user of a prohibited substance who is not captured by the SADR. For example, a gym user who does not participate in organised sport is not bound by the SADR.
18. The functions and powers of DFSNZ are set out in sections 12 and 13 of the Sports Anti-Doping Act.
19. The functions of DFSNZ are:
- make the Sports Anti-Doping Rules in accordance with the requirements of the Sports Anti-Doping Act
  - do all things necessary to comply with and implement the rules
  - do all things necessary to comply with and implement any Article of the Code that is not required to be reflected in the rules but requires DFSNZ to do something
  - ensure New Zealand complies with all international agreements and arrangements concerning doping in sport to which New Zealand is a party
  - test athletes who are not citizens or residents of New Zealand, and notify the test results, in accordance with any agreements entered into with foreign governments, foreign anti-doping organisations, or other signatories to the Code, and enter into reciprocal testing agreements in relation to athletes who are citizens or residents of New Zealand
  - consult with, advise, and assist—
    - government departments, local authorities, Sport and Recreation New Zealand, the New Zealand Olympic Committee, NSOs, athletes, and other bodies or persons on any matters concerned with doping in sport, and related matters; and

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<sup>58</sup> <http://www.legislation.govt.nz/act/public/2006/0058/latest/DLM390107.html>

<sup>59</sup> [https://drugfreesport.org.nz/uploads/site/assets/NZ\\_SADR\\_2018.pdf](https://drugfreesport.org.nz/uploads/site/assets/NZ_SADR_2018.pdf)

- government and non-government organisations and other persons overseas, for the purpose of promoting the adoption of uniform international testing procedures for doping in sport
- advise the Minister for Sport and Recreation on any matters related to doping in sport, and related matters
- generally take all steps necessary or desirable to achieve the purposes of the Sports Anti-Doping Act
- perform any other functions that—
  - are conferred on DFSNZ by the Sports Anti-Doping Act or any other enactment; or
  - the Minister for Sport and Recreation may direct in accordance with section 112 of the Crown Entities Act 2004.

20. Without limiting DFSNZ's powers under sections 16 and 17 of the Crown Entities Act 2004, it may:

- take all steps necessary to comply with and implement the Sports Anti-Doping Rules
- take all steps necessary to comply with and implement the Code in accordance with the Sports Anti-Doping Act
- subject to section 14 of the Sports Anti-Doping Act, charge any fees, or impose any charges, that are reasonable in respect of the provision of services, information, or advice requested from DFSNZ, other than information supplied to an athlete relating to the athlete. The amount or rate of a fee or charge must be reasonably related to the expenses incurred or to be incurred in relation to the provision of services, information, or advice to which the fee or charge relates.

**AD1** Do you think the powers and functions of Drug Free Sport NZ under the Sports Anti-Doping Act are appropriate to realise New Zealand's anti-doping regime? Please explain your answer.

**AD2** Do you have any other comments on the Sports Anti-Doping Act 2006?

### **A3/4: DFSNZ meets its anti-doping responsibilities through education, regulation and influence**

This section considers the things DFSNZ does to meet its obligations and the resourcing it uses to do so.

#### **Education**

21. All three New Zealand signatories to the Code have obligations regarding the education of athletes in relation to their anti-doping responsibilities.
22. Over the last few years DFSNZ has invested in its education programmes, increasing its internal resource threefold and expanding its external reach into NZ's sporting and secondary school contexts. Its education programmes comprise seminars, workshops, electronic/online learning modules, outreach events and resources to educate athletes,

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support personnel (e.g. coaches, parents) and medical professionals about the Sports Anti-Doping Rules and their responsibilities.

23. DFSNZ works collaboratively with NSOs and aims to educate elite athletes and those on development pathways annually.
24. As well as seminars for elite and development athletes, DFSNZ also runs the Good Clean Sport programme. This programme, aimed at secondary school youths, reflects the international shift in anti-doping education toward a values-based approach to assist them in understanding their values as a foundation from which decision are made. DFSNZ's Education Manager is currently researching towards a PhD in this area through the Auckland University of Technology.
25. The Good Clean Sport programme is also aimed at coordinating and supporting sport educators around the country who need any values resources and/or anti-doping information. This will facilitate sharing of information and resources and support and coordination for the individual educators, supported by a Good Clean Sport website portal for hosting any useful resources or collateral.
26. DFSNZ also provides a free electronic learning platform, with separate modules for athletes new to anti-doping, experienced athletes and for support personnel. It also uses a range of other channels to raise awareness, e.g. social media, newsletters, etc.
27. Finally, it offers online and text medications checking services so anyone can check if their prescribed medications breach the Code, anytime.
28. In 2017-18:
  - DFSNZ educated over 8,300 athletes and support personnel via face-to-face seminars
  - over 1,000 e-learning modules were completed
  - over 27,000 resources (pamphlets, handbooks and factsheets) were distributed
  - over 3,390 text medication checks were received
  - DFSNZ ran 14 outreach programmes across 12 sports. Programmes were run at the National Secondary Schools Condor 7s, 1<sup>st</sup> XV Rugby National Championships, North Island Rowing Championships and the NZ Secondary Schools Volleyball Championships, amongst other events.

**AD3** Have you had anti-doping education from Drug Free Sport NZ? In what form was it delivered, e.g. face-to-face, online, etc? How did you find it? Have you had anti-doping education from any other sources?

**AD4** Do you feel the organisations you are involved with are working with Drug Free Sport NZ to manage the risk of doping appropriately? Please explain your answer.

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## Regulation

29. DFSNZ conducts testing across more than 50 New Zealand sports which have agreed to the Sports Anti-Doping Rules. Rugby union, cycling and rowing were the three most tested sports in New Zealand in 2016-17.<sup>60</sup>

30. The testing and investigations programme has five key elements:

- Maintaining up to 150 athletes who are included in the national testing pool (NTP) or the registered testing pool (RTP) and are subject to the Athlete Whereabouts programme. This requires them to provide regular and accurate information on their whereabouts so that they can be located for testing at any time and without notice.<sup>61</sup>
- Collecting blood and urine samples for analysis at WADA-accredited or approved laboratory to detect the presence of prohibited substances or the effects of doping by monitoring selected biomarkers in athletes' samples over time (called the Athlete Biological Passport). The majority of samples are collected domestically (in New Zealand) but a significant number of samples are collected from New Zealand athletes training or competing overseas.
- In 2016-17 DFSNZ conducted 1,421 urine tests and collected 199 blood samples.<sup>62</sup> DFSNZ conducts a risk review across all sport in New Zealand and targets sports and individuals that pose the highest risk based on a range of factors.
- Intelligence gathering and the investigation of potential ADRVs. In 2016-17 DFSNZ brought eight cases of alleged ADRVs before the Sports Tribunal or Rugby Judicial Committee.<sup>63</sup> DFSNZ has historically had a whistleblower facility and is in the process of developing a more structured approach to whistleblowing in the future.
- Bringing substantiated allegations of anti-doping rule violations to the Sports Tribunal or NZ Rugby Judicial Committee for adjudication.

31. DFSNZ also undertakes “user pays” testing at the request of other anti-doping organisations and/or NSOs. This includes, for example, testing at international events hosted in New Zealand, testing of foreign athletes training or competing in New Zealand and testing of athletes competing in professional leagues, such as Super Rugby and Plunket Shield cricket.

## Influence

32. To promote a culture of clean sport and represent the interests of clean New Zealand athletes, DFSNZ works internationally and domestically with other anti-doping organisations and sport organisations including:

- WADA
- National Anti-Doping Organisations (NADOs) from other countries
- The Institute of National Anti-Doping Organisations (iNADO)
- Sport NZ

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<sup>60</sup> [https://drugfreesport.org.nz/uploads/site/assets/DFSNZ\\_2017\\_Annual\\_Report.pdf](https://drugfreesport.org.nz/uploads/site/assets/DFSNZ_2017_Annual_Report.pdf)

<sup>61</sup> Ibid.

<sup>62</sup> Ibid.

<sup>63</sup> Ibid.

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- High Performance Sport New Zealand
  - New Zealand Olympic Committee (NZOC)
  - Paralympics New Zealand (PNZ)
  - NSOs representing more than 50 sports
  - Players' associations
  - Sports Medicine New Zealand – an organisation for health professionals and others interested in community health with special reference to the principles of sports medicine and exercise science.

33. The New Zealand government (through DFSNZ) makes an annual financial contribution to WADA (US\$57,000 in 2018). The Minister for Sport and Recreation has a seat on WADA's foundation board. Every third year the Minister takes the Oceania seat on the Executive Committee. Australia takes the Oceania seat the rest of the time.

34. DFSNZ assists WADA with some of its capacity building projects, such as giving support and providing technical assistance to the Oceania Regional Doping Organisation (responsible for the Pacific Islands).

35. DFSNZ works with WADA to provide support to its expert groups, and on any international projects where its input would be beneficial e.g. recently DFSNZ provided personnel to join WADA's "independent observer" team at the Commonwealth Games, in effect providing oversight of the work of ASADA and the Commonwealth Games Federation.

36. The Chair of the DFSNZ TUE Committee also chairs WADA's TUE expert Committee.

37. When the Code is reviewed, DFSNZ leads the collation of feedback from stakeholders in New Zealand and brings it together for a submission on behalf of New Zealand.

38. DFSNZ works with NADOs from other countries, and with iNADO, on behalf of clean Kiwi athletes to try and get a level playing field across all international competition.

39. DFSNZ work with the other signatories to the code, NZOC and PNZ to receive the list of athletes with potential to attend future major events (e.g. Olympic or Paralympic games) so that DFSNZ's education can be focussed on supporting and educating those athletes.

40. It also works with NSOs and players' associations to maximise the effectiveness of the timing and content of its education programmes. NSOs also provide information to assist DFSNZ with investigations where necessary.

41. DFSNZ works directly with many members of Sports Medicine New Zealand who are themselves team doctors and physicians responsible for the care of elite athletes, represented in the DFSNZ registered testing pool.

#### **DFSNZ has limited resources**

42. DFSNZ receives an appropriation of \$3,239,000 per annum through Vote Sport to fulfil its functions. In the 12 months to 30 June 2017 it also received \$286,941 in other revenue. The paragraphs above set out the activities undertaken by DFSNZ to fulfil its functions within this level of resourcing.

43. Comparing DFSNZ's revenue and outputs with the same statistics for other NADOs is complicated. NADOs have different functions and focus on different risks in different jurisdictions. Fluctuating exchange rates make comparison of funding difficult. Funding sources vary – some NADOs receive a higher proportion of non-government funding, while governments can alter their contributions across years. Demands on outputs can vary

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between years. For example, more tests may be needed in a year where New Zealand hosts prominent events.

44. With a population of 4.7m people, the government contributed about NZ\$0.69 per head to DFSNZ in 2016/17. This is similar to the funding received by Anti-Doping Denmark (NZ\$3,664,869 for 5.6m people in 2016/17) although Anti-Doping Denmark also has responsibility for match-fixing education and reporting (but no investigative capacity). Denmark (131 people per km<sup>2</sup>) has a larger population density than New Zealand (15 people per km<sup>2</sup>), suggesting economies of scale for face-to-face education and testing could be realised.
45. The Finnish Centre for Integrity in Sports (FINCIS) receives NZ\$0.88 per head of population (NZ\$4,748,386 for 5.4m people in 2016/17). However, FINCIS also has responsibility for anti-match-fixing and has investigative capability.
46. The Australian Sports Anti-Doping Authority received AU\$11.929m from the Australian government in 2016/17 for a population of 24m for a ratio of roughly A\$0.50 per head of population. However, Australia will provide a one-off government injection of AU\$3.3m in 2018/19 to promote anti-doping capability in the Australian Sports Drug Testing Laboratory with an additional AU\$3.8m for the Australian Sports Anti-Doping Authority.<sup>64</sup>
47. With every jurisdiction facing a different set of functions, demographic circumstances and risk profile, comparing funding across jurisdictions is of limited value. We want to understand if DFSNZ is adequately resourced to fulfil its functions and, if not, why not?

**AD5** Is Drug Free Sport NZ adequately resourced to meet its obligations? Please explain your answer.

#### A4/4: Other organisations with related responsibilities

This section sets out the roles of other organisations with an interest in restricting prohibited substances.

##### The Sports Tribunal of New Zealand

48. The WADA Anti-Doping Code requires DFSNZ to “vigorously pursue all potential anti-doping rule violations within their jurisdiction”.<sup>65</sup> Where there is sufficient evidence DFSNZ will bring proceedings before the Sport Tribunal (for all sports other than rugby) or the NZ Rugby Judicial Committee. Sports are free to choose whether to use the Tribunal or to establish their own tribunal/committee to hear anti-doping cases, and NZ Rugby is the only sport to have taken this option.
49. When DFSNZ intends to bring proceedings the athlete, their NSO, their international federation, and WADA are informed.
50. The Tribunal is an independent statutory body established under the Sport Anti-Doping Act 2006. It holds a hearing to consider a case against an athlete in which both sides get to

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<sup>64</sup>

[http://www.health.gov.au/internet/budget/publishing.nsf/Content/BAB1902632B12E7CCA25826D0002BC81/\\$File/056\\_FINAL\\_FS\\_PMHPHS\\_S\\_Pr otectingIntegrityofAustralianSport.pdf](http://www.health.gov.au/internet/budget/publishing.nsf/Content/BAB1902632B12E7CCA25826D0002BC81/$File/056_FINAL_FS_PMHPHS_S_Pr otectingIntegrityofAustralianSport.pdf)

<sup>65</sup> WADA Anti-Doping Code, Article 20.5.7: [https://www.wada-ama.org/sites/default/files/resources/files/wada\\_anti-doping\\_code\\_2018\\_english\\_final.pdf](https://www.wada-ama.org/sites/default/files/resources/files/wada_anti-doping_code_2018_english_final.pdf)

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present evidence. This will usually involve lawyers representing DFSNZ and the athlete, and on occasion the NSO. Lawyers for athletes can be accessed through the Tribunal's Legal Assistance Panel.

51. The Tribunal forms a panel to consider matters from its membership of nine, made up of people from legal, medical and sporting backgrounds. It has wide powers to inspect and examine documents and can require witnesses to attend hearings and produce documents or other material. The Tribunal can make decisions and determine penalties where ADRVs have occurred. Decisions are made publicly available on the Tribunal's website.
52. Between 2003 and June 2017, there were 187 substantive decisions (anti-doping and other cases) of the Tribunal. However, the Tribunal has been involved in more disputes than this, some of which were settled by the parties with the Tribunal's assistance. This figure also does not include provisional suspension decisions. Of the 187 substantive decisions on its website as of May 2018, 115 (approximately 61 percent) are anti-doping cases.
53. The Tribunal was independently reviewed in 2009 and 2015 and, on both occasions, was found to be operating well. Sport NZ does not intend for this process to become another review of the Sports Tribunal but we are interested in hearing your thoughts and experiences.

### **NZ Rugby Judicial Committee**

54. When hearing anti-doping cases within rugby, the NZ Rugby Judicial Committee will ordinarily have three members:
  - a senior legal practitioner acting as chair
  - an experienced medical practitioner
  - a second person fitting one of the above descriptions or an ex-player or administrator with relevant knowledge.
55. Where an ADRV is established the Judicial Committee can impose sanctions in accordance with the Sports Anti-Doping Rules – the same Rules that bind the Sports Tribunal. The Judicial Committee may also impose sanctions on the Person's team, such as loss of points or disqualification, in certain circumstances.
56. The Judicial Committee acts independently of NZ Rugby. In addition to anti-doping cases the NZ Rugby Judicial Committee hears disciplinary proceedings, including appeals from the Provincial Unions.

**AD6**

Do you have any comments about the hearing of anti-doping cases in New Zealand?

### **The Court of Arbitration for Sport**

57. The Tribunal's rules provide that decisions of the Tribunal are final and may not be questioned in any court of law, subject to any applicable right of appeal to the Court of Arbitration for Sport (CAS).<sup>66</sup>

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<sup>66</sup> Rules of the Sports Tribunal of New Zealand, Rule 28(a). The enforceability of this provision has not been considered by the New Zealand courts so proceedings before the Tribunal may be subject to the Arbitration Act 1996. Judicial review proceedings may also be available to challenge a decision of the Tribunal in the New Zealand courts.

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58. The appeal procedure in each case is determined by the regulations of the body concerned and CAS's Code of Sports-related Arbitration.<sup>67</sup> CAS describes itself as an independent institution. The Code establishes CAS as the global appeal body for anti-doping matters.
59. Only two New Zealand doping cases have been referred to CAS from the Sports Tribunal:
- In 2014, triathlete Kris Gemmell was alleged by DFSNZ to have committed a whereabouts violation but the Sports Tribunal initially dismissed the case. After a CAS review Mr Gemmell was found to have committed an ADRV and was banned for 15 months.
  - CAS partially upheld an appeal from DFSNZ regarding cyclist, Karl Murray. CAS found Mr Murray coached athletes while banned which is a prohibited activity. The Sports Tribunal had initially dismissed the case.
60. A person who has been found by the NZ Rugby Judicial Committee to have committed an ADRV is entitled to have the finding and/or sanction referred to a Post-Hearing Review Body. NZ Rugby, DFSNZ, World Rugby and WADA are also entitled to refer a case dealt with by a Judicial Committee to the Post-Hearing Review Body.
61. A decision by the NZ Rugby Judicial Committee, as confirmed, quashed, suspended, varied, increased or decreased by the Post Hearing Review Body, can be appealed to CAS. WADA is not required to refer a matter to the Post Hearing Review Body before exercising its right of Appeal to CAS.

**AD7**

Do you have any comments about the appeals process or the Court of Arbitration for Sport?

## **New Zealand Customs Service**

62. The New Zealand Customs Service manages the border. This includes stopping illegal or unprescribed prescription drugs from entering New Zealand through the post or with travellers. Customs will also work with Medsafe, DFSNZ and the Police depending on the nature of the substances it intercepts at the border and their likely use in New Zealand. Where Customs has reasonable grounds to suspect that imported goods contain a prescription medicine, they refer the consignment to Medsafe pursuant to s242 of the Customs and Excise Act 2018. While most of the substances on the Prohibited List are prescription medicines and fall within control of the Medicines Act 1981, some substances are controlled drugs or psychoactive substances and some are not covered by any criminal legislation (e.g. masking agents).

## **Medsafe**

63. Medsafe is the New Zealand Medicines and Medical Devices Safety Authority. It is a business unit of the Ministry of Health and is the authority responsible for the regulation of therapeutic products in New Zealand. The Investigation and Enforcement Team conducts investigations in relation to the Medicines Act and the Medicines Regulations 1984. This includes the alleged unlawful importation, manufacture, packaging, labelling and supply of medicines.

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<sup>67</sup> <http://www.tas-cas.org/en/general-information/frequently-asked-questions.html>

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64. Medsafe is not established to target doping. However, when medicines on the Prohibited List (excluding those that are controlled drugs or psychoactive substances) are unlawfully imported, manufactured, packaged, labelled or supplied, Medsafe's interests align with those of DFSNZ.
65. When Medsafe is referred performance and image enhancing drugs (PIEDs) from Customs, Medsafe contacts the importer and the medicines are seized. Medsafe may also take other enforcement action, including prosecution. The Health Information Privacy Code and the Privacy Act require Medsafe to have reasonable grounds to believe an importer of PIEDS is involved with a body that adheres to the Sports Anti-Doping Rules before passing information regarding the interception to DFSNZ. In other words, Medsafe can only pass information to DFSNZ if they have reasonable grounds to believe the person who imported them is a member of a sports organisation that has adopted the anti-doping rules. If Medsafe has reasonable grounds to believe this is the case it will advise DFSNZ in accordance with section 28 of the Sports Anti-Doping Act.

### **New Zealand Police**

66. WADA's Prohibited List includes:

- medications that are prescription-only under the Medicines Act
- non-medicinal illicit drugs, e.g. cocaine, methylenedioxymethamphetamine (MDMA), benzylpiperazine (BZP), which are controlled by the Misuse of Drugs Act 1975
- controlled medicines which are regulated under the Misuse of Drugs Act but that can be prescribed, e.g. methylphenidate, opioids
- cannabimimetics and other psychoactive substances which are regulated under the Psychoactive Substances Act 2013.

67. Police (and Customs) enforce the Misuse of Drugs Act and the Psychoactive Substances Act, and work with Medsafe to enforce the Medicines Act. Therefore, the interests of Police can overlap with DFSNZ.

68. If an athlete possesses or supplies a prohibited substance that is also an illicit drug or a prescription medicine not prescribed to them, both the Police and DFSNZ can take action. This is not double jeopardy, as violation of the Sports Anti-Doping Rules is not a criminal matter.

### **Other organisations**

69. NSOs support DFSNZ by organising opportunities for DFSNZ to educate their athletes and support personnel. NSO policy and constitutional documents will often make clear that the Tribunal has the authority to rule on ADRVs in a particular sport. NZ Rugby has its own Anti-Doping Regulations<sup>68</sup> which are the Sports Anti-Doping Rules, except where there is inconsistency between the Rules and the World Rugby regulations. In these cases, the World Rugby regulations will apply so long as they are consistent with the Code.

70. HPSNZ supports DFSNZ by providing advice to high-performing athletes on nutrition, sports medicine and supplement use. More on the HPSNZ supplements programme is provided below in the section on supplements.

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<sup>68</sup> <http://nzrugby.co.nz/what-we-do/regulations>

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71. Sports Medicine New Zealand promotes anti-doping education to its members and ensures that issues relating to therapeutic use exemptions are widely discussed through its annual scientific conference.

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## Part B: understanding the current anti-doping environment

Part B of this chapter considers issues relating to the current anti-doping environment in New Zealand and abroad. Specifically, it discusses:

- prominent doping action in lower level sport in New Zealand
- the data we have that provides some insights into trends in doping in New Zealand
- the risks of supplement use
- the role of medical practitioners and therapeutic use exemptions.

### B1/4: Prominent doping action in lower level sport in New Zealand

This section notes some recent developments in lower level sport in New Zealand in regard to doping.

72. The WADA regime is currently designed to apply broadly, to all athletes subject to the WADA Code regardless of age or level of professionalism. There are several reasons for this. First, elite competitors can be almost any age, from teenage gymnasts to senior shooters. Second, some sub-elite athletes are trying to become elite athletes. They should not be able to benefit from performance enhancing substances on the pathway to elite level if they cannot compete without those substances at the elite level. Third, the health risks of substance use apply at all levels.
73. As noted above, DFSNZ focuses its testing efforts on elite sport, in large part because it is expected to. However, sub-elite sport can be a highly competitive environment, which can create pressure to look for an edge. This, combined with a lower amount of anti-doping education and less testing mean lower level athletes are using prohibited substances. Two examples of DFSNZ reaching into the lower levels of sport are given below.

#### Clenbuterol NZ

74. In 2017 Josh Townshend was jailed for 15 months for advertising, possessing and supplying prescription medicines through the website Clenbuterol NZ.<sup>69</sup> Townshend admitted 129 offences under the Medicines Act. Clenbuterol was the main substance sold through the website and is an anabolic steroid, which some athletes believe has fat-burning properties. In other countries it is an ingredient in asthma medication but it is not approved for that use in New Zealand.
75. Medsafe identified the website and prosecuted Mr Townshend, before providing email data from the website to DFSNZ. DFSNZ analysed the data to find evidence of up to 100 athletes, affiliated to NSOs, who were suspected to have been using Townshend's services. A high proportion of those implicated were rugby players and non-professional athletes who would have had little education, if any from DFSNZ.
76. These cases highlighted that all members of a sport organisation, even amateur and low-level athletes or participants, are bound by the anti-doping rules (provided the national sport organisation has adopted the NZ Sports Anti-Doping Rules). Historically, low-level athletes have been unlikely to be pursued for an anti-doping rule violation because they

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<sup>69</sup> An additional nine months were added to his sentence for driving while disqualified.

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have not been tested. The cases mentioned above highlight that low-level athletes who dope can be caught through investigations rather than testing.

### Anti-doping in schoolboy rugby

77. In 2015, the South African Institute for Drug-Free Sport (SAIDS) reported that over the 10 years up to 2014, nearly half of all doping violations against rugby players came from the under-19 level and the country's annual Craven Week schoolboys' rugby tournament. SAIDS reported 13 convictions of Craven Week players during that time, and 10 of those had been in the past five years. Further anecdotal evidence from the United Kingdom identified similar issues and Otago University also carried out a preliminary pilot study of school boy rugby players and two of 142 respondents self-reported their use of prohibited substances.<sup>70</sup>
78. In 2017 DFSNZ started an anti-doping programme of education within the Top Four National 1<sup>st</sup> XV rugby competition, culminating in a small number of limited scope tests at the finals tournament in Palmerston North in September 2017.

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|------------|--|
| <b>AD8</b> | Do you think low-level athletes/participants should be subject to the Sports Anti-Doping Rules (i.e. be subject to punishment for doping)? Please explain your answer.   |
| <b>AD9</b> | Do you think low-level athletes/participants should be subject to the Sports Anti-Doping Rules but should have less harsh sanctions applied to them (e.g. warnings, reprimands, shorter bans from sport, etc)? Please explain your answer. |

## B2/4: What data do we have about the prevalence of doping in New Zealand?

This section presents the best datasets available with contextual information to attempt to understand the prevalence of doping in New Zealand sport.

79. Some datasets are available from a range of sources to provide an overview of doping in New Zealand. However, as doping is often covert in nature, the data, by definition, measures only the doping that has been detected. It should be noted that the datasets relating to drug detection are directly related to the quality and quantity of resourcing for enforcement. If enforcement is better, or even luckier, more drug use may be detected even if there is no more use occurring.

### DFSNZ data regarding testing and ADRVs<sup>71</sup>

80. The dataset below shows the urine tests undertaken by DFSNZ, the ADRVs and the positive tests.

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<sup>70</sup> <https://drugfreesport.org.nz/news/archive/research-reveals-the-potential-risk-of-young-rugby-players-doping-is-real>

<sup>71</sup> From DFSNZ Annual Reports. All statistics refer to urine tests only. See [https://drugfreesport.org.nz/uploads/site/assets/Annual\\_Report\\_14\\_15.pdf](https://drugfreesport.org.nz/uploads/site/assets/Annual_Report_14_15.pdf) and [https://drugfreesport.org.nz/uploads/site/assets/DFSNZ\\_2017\\_Annual\\_Report.pdf](https://drugfreesport.org.nz/uploads/site/assets/DFSNZ_2017_Annual_Report.pdf)

**AD Table 1: DFSNZ urine tests and ADRVs**

Year	Testing out of competition	Testing in competition	DFSNZ funded total	User Pays Tests	Total	ADRVs	Positive Tests	% positive no. of DFSNZ tests
2016-17	899	522	1,421	354	1,775	8	6	0.34%
2015-16	627	300	927	443	1,370	3	2	0.15%
2014-15	557	384	941	277	1,218	7	2	0.16%
2013-14	534	390	924	398	1,322	2	1	0.08%
2012-13	561	332	893	363	1,256	7	7	0.56%
2011-12	682	414	1,096	573	1,669	6	5	0.30%
2010-11	657	483	1,140	412	1,552	13	10	0.64%
2009-10	539	496	1,035	308	1,343	8	6	0.45%
2008-09	595	481	1,076	303	1,379	9	9	0.65%
2007-08	587	477	1,064	296	1,360	17	17	1.25%
2006-07	696	525	1,221	378	1,599	15	12	0.75%
2005-06	772	490	1,262	340	1,602	15	15	0.94%
2004-05	707	511	1,218	301	1,519	18	17	1.12%
2003-04	713	443	1,156	361	1,517	9	8	0.53%
2002-03	682	445	1,127	286	1,413	12	9	0.64%
2001-02	706	447	1,153	328	1,481	13	13	0.88%
2000-01	762	500	1,265	99	1,361	14	8	0.59%
1999-00	585	443	1,028	152	1,180	9	7	0.59%
1998-99	556	337	933	18	951	6	1	0.11%
1997-98	586	400	986	8	994	16	12	1.21%
1996-97	339	283	622	38	660	11	10	1.52%

81. The athletes captured by this data are elite, or on an elite pathway, given where DFSNZ targets its resources.

82. For global comparison, WADA’s 2016 Anti-Doping Testing Figures report shows 1.60 percent of samples returned positive tests in 2016. This is up from 1.26 percent in 2015 and 1.11 percent in 2014. Since 2008 between 1.08 and 1.31 percent of tests have returned positive results each year.<sup>72</sup>

**Sport Tribunal data regarding proceedings filed and decisions issued on doping matters<sup>73</sup>**

83. Some of these ADRVs result in proceedings being filed with the Sport Tribunal. Other proceedings are filed after investigations. Proceedings are often filed in a different year to the corresponding ADRV. Therefore, there is not a direct one-to-one relationship between ADRVs and proceedings filed. Similarly, decisions can be issued after the Tribunal has considered matters, which could be in a different year to the filing of the corresponding proceedings.

<sup>72</sup> [https://www.wada-ama.org/sites/default/files/resources/files/2016\\_anti-doping\\_testing\\_figures.pdf](https://www.wada-ama.org/sites/default/files/resources/files/2016_anti-doping_testing_figures.pdf)

<sup>73</sup> <http://www.sporttribunal.org.nz/assets/Uploads/Sports-Tribunal-Annual-Report-2016-25.pdf>

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## AD Table 2: Sports Tribunal anti-doping activity

Year	Proceedings filed	Decisions issued	Sanctions imposed
2017-18	16	14	13
2016-17	9	8	7
2015-16	4	3	3
2014-15	4	6	6
2013-14	6	3	3
2012-13	6	8	8
2011-12	5	7	7

84. As you can see, there is little to suggest a general trend in the volume of doping cases being brought to the Tribunal.

85. The 2017-18 year involved a much heavier workload for the Tribunal. Part of this was through the cases that came from the Clenbuterol NZ investigation discussed below. However, outside of those cases there have been a comparatively large number of other cases, mostly involving non-intentional doping.

86. DFSNZ predicts a higher number of cases being brought to the Tribunal in the future due to DFSNZ's ongoing expansion into education, higher profile and better collaborative relationships.

87. The number of anti-doping decisions made by the NZ Rugby judicial system each year are set out below.

## AD Table 3: NZ Rugby Judicial Committee activity

Year	Number of decisions where sanctions were imposed <sup>74</sup>
2018 (up to September)	7
2017	4
2016	2
2015	1
2014	0
2013	1
2012	0
2011	2

88. As for the Tribunal, the recent increase in decisions where sanctions were imposed is due to the cases that came from the Clenbuterol NZ investigation. DFSNZ's expectation of a higher workload in the future is as applicable to the NZ Rugby Judicial Committee as it is to the Sports Tribunal.

### Medsafe data

89. The dataset below was provided by Medsafe and shows the number of interceptions of parcels containing PIEDs at the border that Customs referred to Medsafe. There is no information on the size of the parcels or the total quantities of PIEDs. Other than the

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<sup>74</sup> <http://nzrugby.co.nz/what-we-do/regulations/anti-doping>

information below on anabolic steroids, these figures do not include information on the size of the parcels or the total quantities of PIEDs.

#### AD Table 4: Medsafe interceptions

Year	Number of parcels
2017	228
2016	331
2015	329
2014	311
2013	340
2012	186
2011	98
2010	123
2009	89
2008	89

90. As shown, PIED interceptions were stable at around 100 interceptions per year until 2012. From 2013 they appear to have stabilised again at around 325 interceptions per year through to 2016. The reasons for this are unclear. A greater number of interceptions could indicate a greater number of attempts at importing PIEDs but it could also reflect the sheer lack of enforcement agencies. We also do not know how many PIEDs are made in New Zealand and sold on the black market, or how this relates to the interceptions at the border.

91. The table below shows the number of PIEDs intercepted by category in the intercepted parcels. Note that some consignments contain more than one type of PIED.

#### AD Table 5: Types of PIEDS intercepted by Medsafe

PIED	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
Anabolic steroids	79	83	91	61	122	214	268	329	352	199
Antioestrogens	11	13	24	24	39	84	116	117	125	115
Fat burners	6	17	21	21	44	51	67	58	57	53
Growth hormones	11	6	12	11	18	26	18	13	5	10
Insulin-like growth factor	5	1	1	2	4	11	4	3	6	1
Other	3	15	12	6	11	7	5	12	45	35
Peptides	1		3	3	27	111	58	24	27	17
Selective androgen receptor modulators				1	7	1	6	5	9	7
<b>Total</b>	<b>116</b>	<b>135</b>	<b>164</b>	<b>129</b>	<b>272</b>	<b>505</b>	<b>542</b>	<b>561</b>	<b>626</b>	<b>437</b>

## AD Table 6: Quantity of anabolic steroids (and suspected anabolic steroids) intercepted

Anabolic steroids	2014	2015	2016	2017
Active pharmaceutical ingredient <sup>75</sup> (gm)	12,082.0	12,066.7	11,806.5	7,202.9
Vials containing powder (gm)	110.0	445.0	450.0	10.0
Liquids (mls)	6,535.0	3,397.0	2,785.5	3,385.0
Tablets/Capsules	55,393.0	11,616.0	16,663.0	9,735.0

92. The trends shown in total interceptions reflect the trends in anabolic steroid interceptions. Anabolic steroids are favoured by athletes wanting to build muscle. They become performance and image enhancing when used in doses 10 to 100 times higher than prescribed doses. We cannot tell from the above data whether these steroids were imported for use by those in the sport sector, or by recreational bodybuilders. It is important to note that recreational gym users and bodybuilders, are not bound by the Sports Anti-Doping Rules, unless they happen to be a member of a sport organisation that has adopted the rules.

93. Antioestrogens can complement anabolic steroid use by countering the oestrogenic effects of anabolic steroid use in males. They act to decrease oestrogen in the body or block oestrogen receptors. It is not surprising that the dataset above shows antioestrogens follow a similar trend to anabolic steroids.

### The Australian PIEDs market has expanded rapidly in recent years

94. According to the Australian Crime Commission in 2013, this is evidenced by:

- increased border seizures, with the number of PIEDs detected at the Australian border rising from 2695 in 2009–10 to 5561 in 2010–11, a 106 per cent increase
- an increase of 255 per cent between 2009–10 and 2010–11 in the number of hormones detected at the Australian border by the Australian Customs and Border Protection Service
- the highest number on record of national steroid seizures and arrests in 2010–11 by Australian law enforcement agencies
- an increasing number of individuals reporting the injection of PIEDs
- more than half of the males who were new to injecting in 2011 were reportedly injecting PIEDs
- the Australian Crime Commission has identified or suspects widespread PIED use in a number of professional sporting codes and at sub-elite level.<sup>76</sup>

95. We are not aware of analogous statistics in New Zealand.

**AD10**

Can you provide any data or research to indicate trends in performance and image enhancing drug use in New Zealand?

<sup>75</sup> The "active pharmaceutical ingredient" generally refers to the portion of a tablet, liquid, etc that is the drug itself rather than other ingredients that effectively suspend the drug itself in a solution or tablet. In AD Table 6 it refers to bulk powders that would be manufactured into final pharmaceutical dosage forms such as vials for injection, tablets or capsules.

<sup>76</sup> <http://www.medsafe.govt.nz/consultations/acc-pieds.pdf>

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## B3/4: Supplements and sports foods

Our preliminary research suggested the use of supplements and sports food can entail unintended consequences, including unintentional taking of prohibited substances. The use, risks and regulation of these products is considered in this section.

### Supplement use is common

96. Supplements and sports foods are products intended to increase the intake of a substance normally derived from food. Common supplements and sports foods include vitamin tablets and pre-workout supplements. These types of products are often collectively referred to as supplements.
97. Supplement use and availability is becoming more common in New Zealand. However, our initial research suggests athletes do not always understand the risks involved with using these products.
98. In 2015, the New Zealand Medical Journal noted unpublished research from 2009 found 93 percent of elite New Zealand athletes reported usage of three supplements in the prior six months.<sup>77</sup>
99. A study of 1<sup>st</sup> XV rugby players at New Zealand schools found 70 per cent admitted taking four or more supplements (daily, weekly or monthly), with 90 per cent of them concerned about the safety of the products.<sup>78</sup> This includes drinks like Powerade but players reported using pre-workout supplements, protein powders and other products. Some of this is attributable to coaches, parents and caregivers, and the pressures adolescents feel to attain a certain body shape associated with their sport while they are still growing.
100. Further, research published by United Kingdom Anti-Doping (UKAD) shows 87 percent of British adults using supplements do not seek professional advice from the likes of a dietician, pharmacist or doctor before commencing use. Twenty percent do not seek advice at all.<sup>79</sup> Others seek advice from the internet or friends.

### There is evidence of risks with supplements

101. Anybody using these products should be aware of the health risks involved. Athletes also need to be aware of the status of the ingredients on WADA's prohibited list and the potential to be banned from competition if taking a product leads to a failed drug test.
102. Evidence from New Zealand of the risks of supplement use include:
  - An Otago University study found six of 116 supplements it tested contained androgens, an anabolic steroid.<sup>80</sup> Androgens could pose a health risk for buyers and professional athletes using the product could unwittingly fail a drugs test.
  - An Akarana Falcons (top level, amateur) rugby league player recorded two positive tests for the prohibited substance Higenamine. The Sports Tribunal imposed an 18-month ban. The player admitted using the supplement Oxyshred, which advertises itself as a 'super potent thermogenic fat burner'. Higenamine was listed on the label of

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<sup>77</sup> [https://www.researchgate.net/publication/285926509\\_Drug\\_misuse\\_in\\_sport\\_A\\_New\\_Zealand\\_perspective](https://www.researchgate.net/publication/285926509_Drug_misuse_in_sport_A_New_Zealand_perspective)

<sup>78</sup> <https://drugfreesport.org.nz/news/archive/research-reveals-the-potential-risk-of-young-rugby-players-doping-is-real>

<sup>79</sup> <http://www.sportsintegrityinitiative.com/ukad-reveals-concerns-quick-fix-sport-supplement-usage/>

<sup>80</sup> <https://www.odt.co.nz/news/dunedin/supplements-wake-call>

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ingredients on the Oxyshred container. The player submitted that he relied on the advice of the salesperson that Oxyshred did not contain a prohibited substance.<sup>81</sup>

- A former National Basketball League player also tested positive for Higenamine after using Oxyshred. It was his second ADRV and resulted in a four-year ban from all sport.
- In May 2018 the Sports Tribunal suspended a 16-year old athlete for four months after the athlete returned a positive test for 1,4 dimethylpentylamine. The stimulant is on WADA's prohibited list. It was taken unintentionally as an ingredient in the "Kick Pre-Workout" product although it was not listed on the ingredient list of the product. Another prohibited substance was listed on the ingredient list but was not contained within the product.<sup>82</sup> The athlete submitted that the supplement was in a teammate's drink bottle and he thought it was Powerade.

103. Twenty-two percent of supplement users in the UKAD poll have taken weight loss/fat burners and 15 percent of have taken pre-workout supplements. Some of these products contain methylhexanamine or dimethylbutylamine, both of which are on WADA's prohibited list. They can also have a number of side effects, particularly when taken frequently and in high doses. Side effects can include insomnia; anxiety; increased heart rate and blood pressure; and increased risk of stroke, heart attack and cardiac arrhythmia.<sup>83</sup>

104. Anecdotally, we have also heard that:

- Supplements are used by some athletes as a "smokescreen" or an excuse for returning an adverse analytical finding
- Many supplements rely on unfounded claims of improved performance
- Supplements can be a gateway to future PIED use with international evidence finding adolescent supplement users up to 10 times more likely to dope than non-users.<sup>84</sup>

105. HPSNZ runs a "controlled risk management programme" regarding supplement use for elite athletes. Only a HPSNZ performance nutritionist or medical director can prescribe a supplement to a carded athlete.<sup>85</sup> HPSNZ runs an ethics audit on its supplement suppliers. Its preferred suppliers agree to have their products certified through third party batch testing. Athletes can only get a three-month supply of a supplement unless they will be abroad for more than three months. HPSNZ has a "food first" philosophy meaning that in their view, an athlete maintaining a healthy diet is unlikely to need supplements.

106. The potential for an athlete using a supplement to return a positive test is concerning to DFSNZ, which warns of the risks of supplement use in its education content and on its website, arguing:

- *No supplement is 100% safe, however batch tested products are the lowest risk. Be aware that batch tested supplements do not provide a guarantee against testing positive.*

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<sup>81</sup> <http://www.sportstribunal.org.nz/assets/Uploads/ST1017-Media-Release2.pdf>

<sup>82</sup> <http://www.sportstribunal.org.nz/assets/Uploads/ST0418-Media-Release.pdf>

<sup>83</sup> <http://www.sportsintegrityinitiative.com/ukad-reveals-concerns-quick-fix-sport-supplement-usage/>

<sup>84</sup> Mallia L., Lucidi F., Zelli A., Violani C. (2013). Doping attitudes and the use of legal and illegal performance-enhancing substances among Italian adolescents. *J. Child Adolesc. Subst. Abuse* 22, 179–190.

<sup>85</sup> Carded athletes are elite athletes that demonstrate performance behaviours, an effective support structure and the physical capacities required to achieve a top 8 result at world championships or an Olympic Games at some stage during their career.

- Supplements can be accidentally cross contaminated by other substances made in the same factory, or can be deliberately spiked by the company to ensure users get results.
- Many supplements have inaccurate labelling. Ingredients can have more than 20 different names and not every version is listed on the label. Labels may also fail to list every ingredient or refer to “proprietary blends” where ingredients are not specified.
- Many studies suggest there is little evidence that athletes need supplements given a well-balanced diet.<sup>86</sup>

107. DFSNZ cautions that:

- As an athlete you are solely responsible for every substance in your body.
- By taking a supplement, you accept the risk that it could contain a banned substance, and the possibility of a four-year ban.
- DFSNZ or the World Anti-Doping Agency (WADA) does not approve or endorse ANY supplements.<sup>87</sup>

### The regulation of sports supplements and sports foods

108. Legally speaking, there are various types of sports supplements and sports foods. The exact legal classification of a product will depend on its composition.

### AD Table 7: Relevant regulatory requirements for supplements and sports foods

Classification	Subject to the requirements of...	Example
Dietary supplement	the Dietary Supplements Regulations 1985	Vitamin tablet
Supplemented food	the New Zealand Food (Supplemented Food) Standard 2016	Muesli bar with added protein
Formulated supplementary sports food	Standard 2.9.4 of the Australia New Zealand Food Standards Code	A pre-workout powder that meets the definition in the Standard
Electrolyte drinks	Standard 2.6.2 of the Australia New Zealand Food Standards Code	Powerade

109. More detail on the regulation of supplements and sports foods is in Annex 2.

**AD11** Do you, or others you associate with use any sports supplements or foods? Are you concerned about the possible presence of prohibited substances? Did you check for prohibited substances before using sports supplements or foods? Please provide as much relevant information as you are able.

<sup>86</sup> <https://drugfreesport.org.nz/supplements>

<sup>87</sup> Ibid.

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**AD12** What education regarding the use of sports supplements or foods have you or the athletes in your sports received? Please provide any comments.

**AD13** Do you have any comments on the regulation of sports supplements and sports foods?

#### **B4/4: Medical staff have an important role**

This section considers the therapeutic use exemption regime and some of the concerns raised around the conduct of medical staff overseas.

110. Medical staff, whether specialist team doctors, sports dieticians, registered nutritionists, or general practitioners have an important role to play in countering doping. Athletes and NSOs expect medical staff to help athletes perform at their best within the World Anti-Doping Code and Sports Anti-Doping Rules. Their expertise in medical matters generally exceeds that of the athletes they treat, although they are not always aware of the specific considerations of athletes and the Prohibited List.

111. One area where doctors have a special role is in the consideration of a TUE. The TUE system is designed to allow athletes affected by genuine medical conditions to receive appropriate medical treatment even when this involves the use of a prohibited substance. Given what is at stake (mana, prize money, endorsements, etc) the TUE process is well documented and managed, with its own system of checks and balances. First a TUE Committee organised by a NADO comprising no less than three physicians must consider the request in accordance with strict diagnostic guidelines. Any higher authority, including the TUE Committee of an international federation, may challenge the decision of a TUE Committee. WADA may also discharge its independent right to review any active TUE in accordance with the Code. Medical committees at major events will also scrutinise TUEs.<sup>88</sup>

112. DFSNZ's TUE committee is chaired by the same physician who chairs WADA's TUE expert commission.

#### **Overseas, medical personnel have provoked suspicion or acted illegally**

113. We are not aware of unethical practice from medical personnel in regard to doping of athletes in New Zealand. However, overseas there have been examples where the conduct of doctors has been called into question or found to be lacking. For example, there are some alarming findings relating to doctor conduct in the *Combatting doping in sport* report from the United Kingdom House of Commons Digital, Culture, Media and Sport Committee:

- WADA doctor, Mario Zorzoli approved TUEs for a glucocorticoid, triamcinolone to treat asthma for British cyclist, Sir Bradley Wiggins. Triamcinolone is on the WADA Prohibited List. The use of triamcinolone as an asthma treatment has drawn criticism with some experts alleging athletes like Wiggins and their medical personnel are exploiting the TUE system for an unfair advantage: to be able to lose weight quickly without losing power.<sup>89</sup>
- Medical personnel on Team Sky – Wiggins' cycling team – failed to keep adequate medical records, raising questions about the legality of the medications used to treat Wiggins and other riders on Team Sky. In the United Kingdom, failure to keep proper

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<sup>88</sup> Gerrard, David. Therapeutic Use Exemptions: Protecting the rights of athletes to compete on a level playing field. *World Sports Advocate*, Vol 16, Issue 5, May 2018, p.p. 4-6.

<sup>89</sup> <https://publications.parliament.uk/pa/cm201719/cmselect/cmcumeds/366/366.pdf>, pp 19-22.

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medical records is a breach of the policies of Team Sky, the General Medical Council and the Medicine and Healthcare Products Regulatory Agency. Failure to keep medical records hampered an investigation by UKAD. UKAD claimed the lack of appropriate medical records was a consequence of the failure of British Cycling's systems and there was a lack of executive oversight of team doctors.<sup>90</sup>

- The Committee found:
  - *UK Sport should determine an amount of compensation that should be due to UKAD from British Cycling and Team Sky, to cover the costs of an investigation that was made longer and harder by their failure to keep proper records.*
  - *UK Sport and Sport England should also include a requirement in the Governance Code for national governing bodies, that they have policies in place to ensure that best practice in being followed in respect of drugs use, and the keeping of medical records, within their sport.*<sup>91</sup>
- The former Chief Medical Officer of United Kingdom Athletics, Dr Chakraverty, gave an injection of L-carnitine to Mo Farah—a treatment that Dr Charkraverty had never before given and that Mo Farah had never before received—yet did not record the dose on Farah's medical records. L-carnitine is not a prohibited substance, but there are strict rules around its use. The Committee believes that the General Medical Council should investigate any incident where doctors working in sport have failed to properly record the medicines they are supplying to their athletes.<sup>92</sup>

114. The Australian Crime Commission report into *Organised Crime and Drugs in Sport* found:

*Complicit medical practitioners are a key conduit through which peptides and hormones are being supplied to athletes and other individuals on prescription. In some cases, medical practitioners who are prescribing peptides, hormones and other PIEDs are engaging in lax, fraudulent and unethical prescribing practices, such as prescribing controlled drugs in false names.*<sup>93</sup>

115. The USADA investigation into doping in the Discovery Channel and United States Postal Service teams found overwhelming evidence that Dr Michele Ferrari arranged the doping program for these teams.

### **New Zealand medical practitioners have obligations**

116. The Medical Council of New Zealand is the registration body for doctors in New Zealand. It sets standards and guidelines for the profession.

117. The Council has released a statement titled *Doctors and performance enhancing medicines in sport*.<sup>94</sup> The statement “sets out the Council's position on doctors who prescribe, administer, traffic or supply performance enhancing medicines or off-label and non-evidence based medicines for sporting purposes, or who assist in doing so.” It notes that any doctor engaging in inappropriate practices risks disciplinary proceedings and that “[t]his statement may be used by the Health Practitioners Disciplinary Tribunal, Council and

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<sup>90</sup> Ibid. pp 22-27

<sup>91</sup> Ibid, p 31

<sup>92</sup> Ibid, p 35

<sup>93</sup> <http://www.medsafe.govt.nz/consultations/acc-pieds.pdf>

<sup>94</sup> <https://www.mcnz.org.nz/assets/News-and-Publications/Statements/Doctors-and-performance-enhancing-medicines-in-sport.pdf>

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the Health and Disability Commissioner as a standard by which a doctor's conduct is measured". Importantly, the statement also notes that clear and accurate patient records must be maintained, including records of supplement use and prescriptions of medication and treatments.

118. The Council also has its *Good Medical Practice* document which sets out expectations for all doctors, regardless of their specialisation.<sup>95</sup>
119. As noted, Sport NZ is not aware of any instances of New Zealand medical practitioners (or nutritionists, etc) being involved in the doping of athletes subject to the WADA Code. Medical personnel appear to be exercising their duties to athletes responsibly. There has never been an Anti-Doping Rule Violation charge made against a New Zealand sports physician.
120. We are aware of at least one doctor prescribing non-consented human growth hormone and testosterone products to a patient in a manner which posed a risk to the patient's health and safety. We are also aware of at least one doctor having conditions on their scope of practice which prevent them from importing, prescribing, dispensing, or otherwise treating patients with anabolic steroids, ephedrine, growth hormone or any substances used to mask the effect of anabolic steroids and/or growth hormone. Any doctor who engages in inappropriate practices may be subject to disciplinary proceedings. However, it is not a criminal offence if a doctor prescribes or administers PIEDs that are prescription medicines. Sport NZ does not know if these doctors treated athletes captured by the WADA regime or patients outside the regime, e.g. recreational gym users.
121. Complaints about medical practitioners can be lodged with the Health and Disabilities Commissioner. A search for relevant terms in the database of decisions and case notes<sup>96</sup> did not reveal any medical practitioners being investigated for activities relating to doping of athletes.
122. However, given the role doctors overseas have played in doping, we feel the need to seek feedback on doctor conduct in New Zealand to ascertain if there are any issues here.

**AD14** Do you have any comments on the actions of sports physicians in New Zealand in relation to anti-doping?

**AD15** Do you have any comments on the process for getting a therapeutic use exemption in New Zealand?

**AD16** Do you have any other comments about anti-doping in New Zealand?

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<sup>95</sup> <https://www.mcnz.org.nz/assets/News-and-Publications/good-medical-practice.pdf>

<sup>96</sup> <https://www.hdc.org.nz/decisions/search-decisions/>

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# Chapter 5: Protecting against corruption

## What do we mean by corruption?

1. There is no legal definition of corruption in New Zealand. Transparency International defines corruption as “the abuse of entrusted power for private gain”.<sup>97</sup> The Asia Development Bank defines it as "Behaviour on the part of officials in the public or private sector in which they improperly and unlawfully enrich themselves or those close to them, or induce others to do so, by misusing the position in which they are placed".<sup>98</sup>
2. In sport this could manifest as:
  - administrators taking bribes to ensure an off-field outcome, e.g. a city gets to host an event, a company gets broadcasting rights, etc
  - administrators embezzle the funds belonging to an organisation
  - club owners and agents demand “kickbacks” for securing player transfers
  - a bribe being paid to cover up another breach of sport integrity
  - a sports business being used as a front for illicit activity, e.g. money laundering.
3. Corruption in sport is often conflated with match-fixing. While match-fixing can be considered a form of corruption, it is important enough to be considered in a separate chapter below. This chapter is therefore limited to corruption that excludes match-fixing.

This chapter is presented in 6 sections which cover:

- the risks to New Zealand from corruption, including from overseas
- corruption in international sport organisations, including those New Zealand engages with
- corruption in New Zealand sport, including examples of where it has occurred in the past and the laws that protect against corruption
- the obligations of incorporated societies and sports charities that protect against corruption, given the prevalence of these types of organisations in the sports sector
- the protections against corruption provided by robust, transparent governance
- the protections that ensure transparent government.

## 1/6: The risk of corruption to New Zealand, including from overseas

The section sets out the areas of risk regarding corruption for New Zealand, including complacency and the risk posed by transnational organised crime.

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<sup>97</sup> <https://www.transparency.org/what-is-corruption>

<sup>98</sup> <https://www.sfo.govt.nz/what-fraud-is-and-what-we-do>

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## **New Zealand benefits from a perception that there are low levels of corruption**

4. New Zealanders take great pride in leading the world on Transparency International's Corruption Perceptions Index. The Index ranks 180 countries and territories by level of public sector corruption perceived by experts and businesspeople. While sports administrators are not part of the public sector, public sector corruption can be seen as indicative of corruption across a society.
5. The Index runs from 0 to 100, with 0 being highly corruption and 100 being very clean. In 2017 – the most recent data released at the time of writing – we scored 89 out of 100 to lead the world. This contributes to our reputation as a stable, reliable environment in which to do business.<sup>99</sup>

## **However, we cannot be complacent**

6. Our 2017 Corruption Perceptions Index score was lower than our scores in 2016 (90) and the three previous years (all 91). We have maintained our first-place ranking in part because other similarly-placed countries' scores have fallen further. For example, Denmark holds second place with a score of 88, down from 92 in 2014. In contrast, other countries are improving on the Corruption Perception Index. For example, the United Kingdom has improved its score from 74 in 2012 to 82 in 2017.
7. There has been an observable increase in the number of corruption-related prosecutions and allegations in New Zealand. There have been significant cases in New Zealand recently involving bribes paid to officials, corrupt payments made within the private sector, as well as cases which, although prosecuted as fraud, fit the Asia Development Bank definition of corruption.<sup>100</sup>
8. Surveys by Deloitte and PricewaterhouseCoopers suggest that the most common types of domestic corruption are undisclosed conflicts of interest, inappropriate gifts and favours, the misappropriation of assets, and procurement fraud.<sup>101</sup> Recent surveys also suggest that though these behaviours were previously tolerated, attitudes and perceptions are shifting markedly.<sup>102</sup>
9. Transparency International New Zealand's view is that, as a country with a high Corruption Perceptions Index ranking, arguably the most significant risk New Zealand faces is complacency.<sup>103</sup> Complacency impacts on our willingness and capacity to proactively detect and prevent corruption.

## **We face risk from transnational organised crime**

10. Risk – to sport and other sectors – also comes from overseas in an increasingly globalised world. There is a strong link between transnational organised crime and corruption, with corruption often enabling transnational and domestic organised crime activity. For example, recent high-profile cases, including the Mossack-Fonseca leak (Panama Papers) in 2016

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<sup>99</sup>

[https://www.transparency.org/news/feature/corruption\\_perceptions\\_index\\_2017?qclid=EA1aIQobChMikJOI15bK2wIVgSQrCh1DRwFWEAAYASAAEqJXm\\_D\\_BwE](https://www.transparency.org/news/feature/corruption_perceptions_index_2017?qclid=EA1aIQobChMikJOI15bK2wIVgSQrCh1DRwFWEAAYASAAEqJXm_D_BwE)

<sup>100</sup> See, for example, R v Borlase and Noone [2017] NZHC 236; Harrison v Serious Fraud Office [2016] NZHC 2127 and also the recent case of Jeremy Malifa prosecuted for misuse of electronic equipment.

<sup>101</sup> See, for example, Deloitte Bribery and Corruption Survey 2017; PricewaterhouseCoopers, Global Economic Crime Survey 2016, New Zealand Insights.

<sup>102</sup> See, for example, PricewaterhouseCoopers, Global Economic Crime Survey 2018, pg. 7.

<sup>103</sup> Transparency International NZ, (2013). Integrity Plus 2013 New Zealand National Integrity System Assessment.

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and the Paradise Papers in 2017, have exposed corruption in many foreign countries. In these cases, corrupt officials were acting with others, often highly linked to other crime including illicit drugs trafficking, human trafficking, arms trafficking, sanctions avoidance, and tax evasion.

11. Despite successive studies, reliable information relating to the scale of the international illicit economy are not available. However, the most commonly cited estimate of global money laundering is the estimate by the International Monetary Fund of 2-5% of global gross domestic product (GDP). The confidence of this estimate is very low, but it does serve to provide an indication of the scale of international money laundering and the global illicit economy that New Zealand is exposed to. Based on this estimate, approximately US\$2 trillion, or around ten times New Zealand's GDP, could be expected to be generated for laundering.
12. In comparison, New Zealand has a smaller shadow economy by international standards. For example, 2010 World Bank research placed New Zealand's shadow economy as the fifth smallest on the countries list of the Organisation for Economic Cooperation and Development (OECD). New Zealand's lack of a large shadow economy limits transnational criminals' opportunities to break the paper trail in New Zealand by layering illicit proceeds through informal sectors. However, given the connectedness of global finances, global trade, global business and online technology, New Zealand's geography alone is insufficient to be protective against illicit transnational money flows.
13. Illicit funds migrate towards lucrative markets worldwide – both legitimate and illicit. Any one organised crime group may be diversified into four or more markets simultaneously. Organised crime groups use legitimate-appearing business fronts to ensure a strong, consistent revenue stream through involvement in comparatively low risk (legal) markets to finance the higher risk, more lucrative (illicit) aspect of their business. Sports businesses may be an attractive investment for illicit proceeds. Sports businesses provide an opportunity to conduct a wide range of large scale illicit activity, including match-fixing, illicit gambling, transfer-rigging, systemic doping, corruption of officials to influence decision-makers, tax evasion, and fraud. Further, the business may offer a legitimate capital gain and/or profit. There are several overseas examples of large scale fraud and corruption connected to organised crime.
14. Transnational organised crime is also difficult to recognise. Organised crime is loosely structured under a lead person who directs illicit activity. The people in control of organised crime aim to keep themselves at arms-length from the illicit activity of the group – financially, legally and operationally. Sub-leaders perform a range of functions: human resources and people-management, financial and legal management, logistics and operations, and technology functions. Very often the group also employs the services of, or outsource to, professionals to advise on complex methods and techniques, especially in finances and technology. Technology enables access to victims worldwide.
15. While it is reasonable to believe that the New Zealand domestic sporting industry has sufficient protections in place given the small size of our shadow economy, sports businesses and people exposed to international sports markets are likely less well protected. The sports sector in New Zealand is vulnerable to transnational crime. The sport sector comprises a mixture of sports-people, volunteers, local sports bodies, service industries, and larger national bodies. The vulnerabilities lie in:
  - New Zealander's variable capability and checks and balances to recognise and prevent organised crime involvement when it occurs

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- low general awareness linked to an assumption that the transnational risks of organised crime in sport are low in New Zealand.

## 2/6: Corruption in international sports organisations

Examples of corruption at the highest levels of sports administration are well established. Some of the most prominent are listed below.

### Fédération Internationale de Football Association (FIFA)

16. FIFA has faced claims of widespread corruption since 2015, when several top executives were indicted by the US Department of Justice. Two of the most powerful men in football, then FIFA President Sepp Blatter and the Union of European Football Associations (UEFA) President Michel Platini were banned for eight years from all football-related activities by FIFA's ethics committee. They were found guilty of breaches surrounding a £1.3m (\$2m) payment made to Platini in 2011. A Swiss criminal investigation into the pair was also launched.
17. In May 2015 the US indicted 14 current and former FIFA officials and associates on charges of "rampant, systemic, and deep-rooted" corruption involving racketeering, wire fraud, and money laundering conspiracies, following a major inquiry by the Federal Bureau of Investigation (FBI). The FBI investigation was initially triggered by the bidding process for the Russia 2018 and Qatar 2022 World Cups, but was widened to look back at FIFA's dealings over the past 20 years. The investigation revealed that FIFA executives agreed to accept bribes regarding the selection of South Africa as the host of the 2010 World Cup, as well as accepting bribes in connection with broadcasting and other rights to the Concacaf Gold Cup tournament in 1996, 1998, 2000, 2002 and 2003.
18. The World Cup is the most-watched sporting event in the world, generating billions of dollars in revenue from corporate sponsors, broadcasting rights and merchandising. These arrests and investigations cast doubt over the transparency and honesty for the process of allocating World Cup tournaments, electing its president, and the administration of funds, including those set aside for improving football facilities for some of FIFA's poorer members.

### International Olympic Committee

19. The International Olympic Committee (IOC) has frequently insisted it is fully reformed following measures taken after the Salt Lake City bribery scandal in 1999. However, investigations into corruption within the IOC escalated in October 2017 as Carlos Nuzman, the head of the Brazilian Olympic Committee, was charged with corruption, money laundering, tax evasion and running a criminal organisation. Nuzman was suspected of acting as a facilitator, organising a \$2m payment just two days before Rio won the right to host the 2016 Olympic Games. Nuzman has been suspended by the IOC. The payment was made by a wealthy Brazilian businessman to the account of Papa Massata Diack, to guarantee his vote for Rio 2016, an event which would further the businessman's own commercial interests. Papa Massata Diack is the son of Lamine Diack who at the time was president of the International Association of Athletics Federation (IAAF) and a voting member of the IOC.
20. Allegations of corruption within the IOC extend further to include the bidding and voting processes for the Tokyo 2020 Olympic Games. The successful bidding team for Tokyo, or those acting on their behalf were reported to have made payments of around €1.3m to a

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hidden account linked to Papa Massata Diack.<sup>104</sup> Papa Massata Diack has been banned for life from involvement in athletics.

## **New Zealand engages with international sports organisations**

21. New Zealand's NSOs engage with international federations to represent New Zealand's interests. Many New Zealanders sit on committees in international sports organisations and contribute their expertise. They do so while interacting with representatives from all over the world, including from countries that have different cultural approaches to bribery and other behaviour New Zealanders do not condone. We are not aware of any substantiated claims of New Zealanders being bribed or corrupted in this capacity.

**CO1** Are you aware of bribery or corruption in any international sports organisation where a New Zealander is involved or may be exposed? Please provide details.

## **3/6: Fighting corruption in New Zealand sport**

This section sets some recent examples of corruption in New Zealand sport before outlining the protections against corruption in New Zealand law.

### **Examples of corruption in New Zealand sport**

#### **Fraud involving Parafed HB**

22. In September 2017, a former manager of the Hastings Sports Centre pleaded guilty to fraud charges after using tax invoices or statements to dishonestly obtain a monetary advantage. The former manager submitted suspicious invoices from Hawke's Bay Paraplegic and Physically Disabled Association Incorporated (Parafed HB) for cleaning and transportation. She had previously been involved in the running of Parafed HB. Investigations found that the manager had billed almost all 195 invoices which tallied \$530,628 throughout a 13-year period. Through this she illegally obtained \$384,666 for personal use.

#### **Fraud regarding pokies money**

23. Men involved in touch, rugby and rugby league pleaded guilty to charges of conspiracy to defraud. The men were using fake invoices and accounts to defraud sports organisations of money from class 4 gaming machines (colloquially known as "pokies"). About \$1m was received by the criminals from \$1.9m the bars they operated was to send to North Harbour Rugby. A further \$1m was dishonestly reclaimed from over \$2m awarded to Touch NZ.

### **Current protections in place in New Zealand**

24. There are four main laws that could apply if corruption was evident in sport in New Zealand. All four Acts are administered by the Ministry of Justice and enforced by the Serious Fraud Office and Police. These two agencies have a Memorandum of Understanding which states that the Serious Fraud Office (SFO) will Act as the single window of referrals for corruption matters.

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<sup>104</sup> <https://www.theguardian.com/sport/2016/may/11/tokyo-olympic-games-2020-ioc-international-olympic-committee-corruption-bid-scandal>

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## Crimes Act 1961<sup>105</sup>

25. Part 6 contains criminal offences related to, amongst other things, the corrupt use of official information and the corruption and bribery of the judiciary, Ministers, Members of Parliament, law enforcement and public officials. Penalties include up to 14 years' imprisonment for the most serious cases.
26. Part ten of the Crimes Act contains offences relating to property. Offences include: theft, theft by person in a special relationship, dishonestly taking or using a document, obtaining by deception and crimes involving computers. These offences cover activity that is commonly referred to as fraud and/or embezzlement. Penalties include up to seven years' imprisonment for the most serious cases.

## Secret Commissions Act 1910<sup>106</sup>

27. This Act contains bribery and corruption-style offences relevant to the private sector. The maximum penalty on conviction is seven years' imprisonment.<sup>107</sup>

## Criminal Proceeds (Recovery) Act 2009<sup>108</sup>

28. If the Police suspect that an individual has benefitted from any criminal activity, including bribery or corruption, the Criminal Proceeds (Recovery) Act 2009 allows the Crown to recover the money or property derived from this crime.

## Anti-Money Laundering and Countering Financing of Terrorism Act 2009<sup>109</sup>

29. This Act imposes measures to detect and deter money-laundering and the financing of terrorism on sectors that are prone to being used for these activities. With regard to sport, the New Zealand Racing Board – the only New Zealand-based administrator of all racing and sports betting in New Zealand – has an obligation to have measures in place by 1 August 2019 when it:
- provides accounts to customers for gambling or betting
  - carries out cash transactions above a specified threshold.
30. Criminals use betting services to launder illegally earned money, so it looks like they made it legally from gambling. For example, they may store money in betting accounts for a short period before taking it out. Alternatively, they may use an account to receive cash from associates, to move cash nationally, or they may pool together funds from multiple sources, which makes it harder to trace. Introducing measures to counter money laundering and financing of terrorism will deter criminals from laundering money through racing and sports betting and help detect them if they do.<sup>110</sup>

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<sup>105</sup> <http://www.legislation.govt.nz/act/public/1961/0043/137.0/DLM327382.html>

<sup>106</sup> <http://www.legislation.govt.nz/act/public/1910/0040/latest/DLM177643.html>

<sup>107</sup> Prior to 7 November 2015, the maximum penalty was up to \$2,000 for a corporation, or two years' imprisonment or a \$1,000 fine for individuals. Any offending prior to this change will remain subject to these penalties.

<sup>108</sup> <http://www.legislation.govt.nz/act/public/2009/0008/latest/whole.html>

<sup>109</sup> <http://www.legislation.govt.nz/act/public/2009/0035/107.0/DLM2140720.html>

<sup>110</sup> <https://www.justice.govt.nz/justice-sector-policy/key-initiatives/aml-cft/info-for-businesses/sports-racing-betting/>

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**CO2** To what extent are you confident you would recognise corruption, bribery, fraud, embezzlement, money laundering or other financial crimes if you saw them in a sports context?

**CO3** If you saw corruption, bribery, fraud, embezzlement, money laundering or other financial crimes in a sports context would you be willing and able to report them?

## 4/6: Incorporated societies and sports charities have obligations that encourage transparency

A lot of organisations in the sports sector are incorporated societies or sports charities. This section sets out the obligations these types of organisations have that encourage transparency.

### Most NSOs and clubs will have obligations under the Incorporated Societies Act<sup>111</sup>

31. In addition to the above laws that criminalise corrupt behaviour, there are other laws that require organisations, including sport organisations, to be transparent about how income is generated and spent. This transparency is designed to make it harder for corrupt practices to go unnoticed.
32. Legally speaking, most NSOs are incorporated societies. That means they are registered on the Incorporated Societies Register run by the Ministry of Business, Innovation and Employment and subject to the Incorporated Societies Act 1908. The Incorporated Societies Act contains provisions that enhance transparency for society members.
33. The Incorporated Societies Act requires every incorporated society to have a set of rules. The rules set out how the society is run. The Incorporated Societies Act sets out certain matters that must be included in the rules of a society. Rules will also often contain additional clauses covering issues that are specific to the administration of a particular society. Any other matters can be included in a society's rules, provided they are not inconsistent with the Incorporated Societies Act or general law.
34. The rules must specify how the society's money will be managed. This includes specifying who:
  - has responsibility for the society's cheque book
  - can sign cheques
  - will maintain the financial records
  - will collect money owing to the society, etc.
35. If the society has surplus funds to be invested, the rules must specify the types of investments that are permitted. If there is a possibility that the society will borrow money in order to achieve its objects, a rule regarding how money can be borrowed must be included.

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<sup>111</sup> <http://www.legislation.govt.nz/act/public/1908/0212/latest/whole.html#DLM175792>

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36. Every incorporated society must deliver an annual financial statement to the Registrar. The annual financial statement must contain:

- the income and expenditure of the society during the society's last financial year
- the assets and liabilities of the society at the close of the said year
- all mortgages, charges, and securities of any description affecting any of the property of the society at the close of the said year.

37. The annual financial statement shall be accompanied by a certificate signed by a leader of the society to confirm that the statement has been submitted to, and approved by, the members of the incorporated society at a general meeting.

### **The Incorporated Societies Act will be updated**

38. Amendments to the Incorporated Societies Act have been planned for some time. The major proposed changes include:

- Making the basic duties for "committee members" more akin to directors' obligations under the Companies Act 1993
- Adding more specificity around managing conflicts of interest
- Adding requirements for:
  - incorporated societies to have a constitution and
  - that constitution to include a process for handling disputes
- requiring societies to use External Reporting Board accounting standards in the preparation of their financial statements.

39. The Ministry of Business, Innovation and Employment consulted the public on an exposure draft of a Bill setting out the above changes. However, it is not yet known when the Bill might be introduced to Parliament. Drafting instructions for amendments to the exposure draft are due to be provided to the Parliamentary Counsel Office by the end of 2018.

**CO4** *Please only answer this question if your organisation is an incorporated society.*

To what extent is your organisation aware of its legal obligations in regard to financial record keeping? How did your organisation become aware of its obligations?

**CO5** *Please only answer this question if your organisation is an incorporated society.*

To what extent does your organisation fulfil its legal obligations in regard to financial record keeping? Please explain your answer.

### **Sports charities have obligations under the Charities Act 2005**

40. Reporting and transparency requirements also apply to sport organisations that are registered charities.

41. Sport organisations can qualify for registration as charities if the promotion of sport is the means by which a charitable purpose is pursued.<sup>112</sup> All registered charities have legal

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<sup>112</sup> <https://www.charities.govt.nz/apply-for-registration/charitable-purpose/sport-and-recreation/>

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obligations under the Charities Act. Under section 41 of the Charities Act, every charity must provide an annual return to the regulator within six months of its balance date, along with financial statements.<sup>113</sup> Financial statements must be prepared in accordance with financial reporting standards, and audited or reviewed (depending on whether the charity is large or medium sized) by a qualified auditor. Charities must also supply any information or documents specified in a notice from the regulator. These provisions add transparency to the way charities operate. There are currently around 1,800 sport and recreation charities in New Zealand.

42. Sport NZ has guidance on the financial reporting standards for charities available here: <https://sportnz.org.nz/managing-sport/search-for-a-resource/tools-and-resources/financial-reporting-standards-for-charities>.

**CO6** *Please only answer this question if your organisation is a sports charity.*

To what extent is your organisation aware of its legal obligations in regard to financial record keeping? How did your organisation become aware of its obligations?

**CO7** *Please only answer this question if your organisation is a sports charity.*

To what extent does your organisation fulfil its legal obligations in regard to financial record keeping? Please explain your answer.

## 5/6: Weak governance increases the risk of corruption

This section considers the way weak governance can increase the risk of corruption and the resources Sport NZ has produced that can help an organisation to strengthen its governance arrangements.

### There can be a fine line between corruption and negligence

43. Events that look like corruption can sometimes be attributed to negligence, laziness, or a lack of awareness of legal obligations on the part of a governing board or similar body. For example, we have heard anecdotes of:
- governing boards failing to be transparent in their meeting minutes or financial records. This lack of transparency may be hiding corrupt practices but could also be attributed to poor management or poor awareness of the obligations incorporated societies have to their members.
  - governing boards selecting board members to travel with athletes to interesting locations in place of coaches. Decisions like this are made to reward the volunteer service of board members. However, it is rarely in the best interests of the athletes to travel with a board member instead of their coach.
  - Sports clubs failing to accurately report their membership numbers to their NSO in order to transfer a smaller amount of membership fee revenue to the NSO and keep more funds for the club.

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<sup>113</sup> <http://www.legislation.govt.nz/act/public/2005/0039/latest/DLM344368.html#DLM345079>

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44. Examples like the above may or may not be illegal but can undermine trust that a governing body is acting fairly or in the best interests of its members. This can disincentivise involvement in sport. Further, one NSO leader told us roughly one club per year in their sport will cease to exist due to poor financial management.

### **Sport NZ helps NSOs strengthen their governance arrangements**

45. We have been frequently told that good culture starts at the top of an organisation and that organisations with good governance arrangements are more likely to foster organisational cultures that provide little opportunity for corruption or other inappropriate behaviour.
46. As significant funders of New Zealand sport, Sport NZ aims to strengthen sports governance arrangements to ensure sports are being administered capably and ethically.
47. Sport NZ uses a governance framework for the sport and recreation sector.<sup>114</sup> Organisations committing to the framework can be assessed against a quality standard and seek a mark of good governance (Governance Mark) for the sport and recreation sector.
48. To achieve the Governance Mark there are some mandatory elements. These include sound planning expressed in “outcome” terms, good-practice director recruitment, clarity on the board’s role, well-structured meetings and a culture of external accountability.
49. Sport NZ has produced policy templates to help an organisation manage the financial side of its operations.<sup>115</sup> These templates are a tool to help organisations be clear about how their finances are managed. Thirty-five policy templates are available. They cover a broad range of financial matters including fraud, legal advice, and tax charitable status. They are probably more suited to larger organisations, e.g. those that have a chief executive. However, there are sections of policies that could be of use to smaller organisations. Other resources to assist organisations to achieve financial stability are also available on the Sport NZ website.<sup>116</sup>
50. Sport NZ also offers a range of other resources for governance bodies, including online training<sup>117</sup> and the Sport Compass resources.<sup>118</sup>

<b>CO8</b>	To what extent are you confident the sport organisations you are involved with have robust governance arrangements and protections against corruption? Please explain your answer.
<b>CO9</b>	Were you aware of the Sport NZ resources to help organisations with their governance arrangements? If so, how were you made aware?
<b>CO10</b>	Have you used the Sport NZ resources to help an organisation with its governance arrangements? If so, which resources did you use? Do you have any comments? What additional support, if any, does the sport organisation you are involved with need in regard to governance?
<b>CO11</b>	Were you aware of the Sport NZ finance policy templates? If so, how were you made aware?

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<sup>114</sup> <https://sportnz.org.nz/assets/Uploads/SportNZ-GovernanceDocument.pdf>

<sup>115</sup> <https://sportnz.org.nz/managing-sport/search-for-a-resource/templates-and-examples/finance-policies>

<sup>116</sup> <https://sportnz.org.nz/managing-sport/search-for-a-resource/search?c=12&sc=70&adv=adv&start=0&show=10>

<sup>117</sup> <https://sportnz.org.nz/managing-sport/search-for-a-resource/search?c=12&sc=43&adv=adv&start=0&show=10>

<sup>118</sup> <http://www.sportcompass.nz/>

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**CO12** Have you used the Sport NZ finance policy templates? If so, which ones did you use? Did you find them useful?

**CO13** What additional support, if any, does any sport organisation you are involved with need in regard to finance?

## 6/6: There are protections to ensure transparent government

Government plays a significant role in New Zealand's sport sector. Therefore, it is important that the government agencies involved in sport are subject to transparency requirements and external scrutiny. This section outlines the protections in place to ensure transparent government.

51. In New Zealand, the government has several roles relating to sport including:

- supporting bids to host major events like the men's Rugby World Cup
- funding sport generally through Sport NZ (a Crown entity), including to regional sports trusts and NSOs
- funding high-performance sport through HPSNZ, a wholly owned subsidiary of Sport NZ
- funding New Zealand's effort to counter doping through DFSNZ
- linking with local government and other partner organisations (generally through Sport NZ).

52. Corruption erodes public trust in government, institutions and the rule of law, and takes a significant toll on the global economy. Estimates of the total cost of corruption vary, but studies have placed the global cost of bribery alone at approximately NZ\$2 trillion per year.<sup>119</sup> In the United Kingdom, and other comparable jurisdictions, it is estimated that between 3 and 10 percent of public sector funding is lost through misappropriation and other corrupt behaviours.<sup>120</sup>

53. To protect against corruption the government has laws and institutions to hold itself to account.

54. Sport NZ and HPSNZ's standard investment contract also provides a number of protections against corruption or inappropriate use of public funds. For example, organisations receiving Sport NZ and HPSNZ investment are required to keep accurate records and Sport NZ and HPSNZ have the power to undertake an audit. The standard contract also provides Sport NZ and HPSNZ with the power to undertake a review of an organisation receiving investment if there are concerns regarding management, governance or financial administration. All of these measures can help to desensitise corrupt practices by making it more likely that they will be uncovered.

### Official Information Act 1982

55. Making information available to the public is also an important way of ensuring transparency.

56. The purpose of the Official Information Act is to increase the availability of official information to the people of New Zealand to promote accountability of Ministers and

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<sup>119</sup> Kaufmann, Daniel, *Myths and Realities of Governance and Corruption* (November 2005).

<sup>120</sup> See, for example, Crowe Clark Whitehill, 'The Financial Cost of Fraud 2018: the latest data from around the world'.

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government officials, and to enable the population to participate in the making and administration of laws more effectively.

57. Any New Zealand citizen can make a request for official information to a Minister or state sector agency. The information will be released unless there is good reason for withholding it. Acceptable grounds for withholding information are set out in the Official Information Act.
58. Local authorities operate under an equivalent piece of information, the Local Government Official Information and Meetings Act 1987.<sup>121</sup>

### **Office of the Ombudsman**

59. The Ombudsman is an independent unit set up to handle complaints and investigate the administrative conduct of state sector agencies, including in relation to official information requests.<sup>122</sup>

### **The Auditor-General**

60. The Auditor-General provides independent reporting on how taxes and rates are spent by New Zealand's public entities. The aim is to improve the performance of, and public trust in, the public sector. The Auditor-General audits about 3800 public entities, including government departments (e.g. the Ministry of Education), Crown entities (e.g. Sport NZ), state-owned enterprises, local authorities and their subsidiaries and statutory boards. The role is independent of central and local government.<sup>123</sup>

### **Public Finance Act 1989**

61. The Public Finance Act provides a framework for parliamentary scrutiny of the Government's expenditure proposals and management of assets and liabilities. It also specifies minimum financial and non-financial reporting obligations for Ministers, departments, departmental agencies, Offices of Parliament and other organisations and companies related to the Crown.<sup>124</sup>

### **Other laws and institutions**

62. The above are just some of the checks and balances the New Zealand government has imposed on its Ministers and government officials, including those that interact with the sport sector. Other initiatives include:
- The State Services Commission's (SSC's) Integrity and Conduct Programme. SSC has three main roles in leading the State sector in all matters related to integrity and conduct:
    - Setting standards of integrity and conduct that apply to most State Services agencies;
    - Providing advice and guidance to State Services employees on matters of integrity and conduct; and

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<sup>121</sup> <http://www.legislation.govt.nz/act/public/1987/0174/latest/DLM122242.html#DLM122283>

<sup>122</sup> <http://www.ombudsman.parliament.nz/what-we-do>

<sup>123</sup> <https://www.oag.govt.nz/about-us/about-cag>

<sup>124</sup> <http://www.legislation.govt.nz/act/public/1989/0044/latest/DLM160809.html#DLM160817>

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- Investigating matters of integrity and conduct in the State Services.<sup>125</sup>
  - The Protected Disclosures Act – currently under review – which aims to protect public employees who disclose information about serious wrongdoing in or by an organisation.
  - The Anti-Corruption Work Programme underway to further reduce the risk of fraudulent and corrupt behaviour being embedded in New Zealand.

**CO14** To what extent do you think there are adequate provisions to ensure the government is transparent in relation to sport in New Zealand? Please explain your answer.

**CO15** Do you have any other comments on corruption in sport in New Zealand?

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<sup>125</sup> <http://www.ssc.govt.nz/integrityandconduct>

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# Chapter 6: Protecting against match-fixing

This chapter is arranged in four sections:

- the environmental factors that increase the risk of match-fixing and the way these are reflected in New Zealand
- examples of match-fixing from overseas
- the current protections in place in New Zealand, including section 240A in the Crimes Act which makes match-fixing a criminal offence, the New Zealand Policy on Sports Match-Fixing and Related Corruption, NZOC's Integrity Regulation, and actions taken by the New Zealand Racing Board
- for context only, some brief comments on New Zealand's commitments at the London Anti-Corruption Summit and some context on the Macolin Convention.

## What is match-fixing?

1. Match-fixing involves improperly influencing the overall result, or part of, a sports match, game, race or event (generically referred to as a 'match') for financial or personal benefit, rather than for tactical sporting reasons. Match-fixing is commonly associated with bets placed on arranged outcomes for financial return. Match-fixing is a criminal offence in New Zealand in both (animal) racing and sport but this document only considers sport.
2. This section of the discussion document also includes spot-fixing, i.e. the improper influence of a specific part of a match. For example, a bowler in cricket would be spot-fixing if they received a benefit in exchange for timing the bowling of a wide or no ball to benefit a gambler who bet on the timing of the delivery. We refer to "match-fixing" in a general sense to mean match-fixing and spot-fixing.
3. Action constituting match-fixing could be taken by (including, but not limited to) athletes/competitors, teams, the broad entourage (e.g. coaches, support staff, referees, officials, sports agents), venue staff and other individuals outside the sport.
4. Match-fixing conduct includes the following actions:
  - deliberately determining or taking actions to remove or significantly reduce the element of chance involved in the result of a match, an occurrence within a match, a points spread, or any other element of a match
  - deliberate underperformance by athletes
  - withdrawal from a match for non-genuine reasons
  - attempting to influence or influencing a sports official regarding the outcome of a match
  - a sports official deliberately misapplying the rules of a match
  - interference with play, equipment or playing conditions

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- abuse of insider information to support a bet or the making of a bet regarding a match.<sup>126</sup>

## 1/4: Match-fixing is more likely in certain conditions

This section outlines the key conditions that make match-fixing more likely:

- the increased availability of gambling in an increasingly connected world
- increased illegal gambling activity
- some participants are paid little or nothing for sport, or less than their counterparts
- New Zealand's time zone being convenient for gambling in countries with a gambling culture
- the increasing coverage of sport through television or livestreaming
- a society considered non-corrupt, where people may be more complacent.

5. Match-fixing is commonly associated with gambling. Generally, organised syndicates try to fix an outcome which they then bet on through legitimate or illegitimate channels for financial gain. To fix an outcome an organised syndicate will approach someone involved in the match (generally an athlete but potentially a referee, etc) and use some sort of leverage (bribery, blackmail, etc) to get them to arrange an outcome. Some persons are more susceptible to being approached by organised syndicates to fix a match than others. Similarly, some competitions are more likely to be targeted. Potential match-fixers can be befriended and groomed over time. The first fix they undertake is often a subtle action that does not directly influence the outcome of the game. However, once a player has decided to contribute to a fix they can be not only bribed but easily blackmailed as well, making further fixing more likely.
6. It is important to note that we are not aware of substantiated, significant incidents of match-fixing in New Zealand sport. We are only aware of one attempt at match-fixing that was rebuked and reported at the New Zealand Badminton Open in August 2017.<sup>127</sup> However, the inter-related conditions set out below suggest the potential for match-fixing to occur here is increasing.

### The increased availability of gambling in an increasingly connected world

7. As sport becomes more globalised there is an increasing range of games to bet on, ways to bet and betting agencies willing to take bets. The Racing Act 2003 allows a single statutory body, the New Zealand Racing Board (NZRB), to conduct legitimate betting activity relating to sports events that take place both inside and outside New Zealand. NZRB does this through its TAB brand. However, in 2018 New Zealanders are accessing professional overseas platforms through the internet. These platforms may be regulated in other jurisdictions. For the purposes of New Zealand regulation, these services are essentially based offshore, beyond the oversight of the New Zealand government, even if they offer

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<sup>126</sup> Adapted from the 'National Policy on Match-Fixing in Sport', Australian Government, June 2011, para 1.1.

<sup>127</sup> A New Zealand bowls team was found guilty of "match-fixing" at an Asia-Pacific bowls tournament in Malaysia in 2009 by Bowls New Zealand's judicial committee. However, in this instance the players are alleged to have under-performed for tactical reasons rather than reasons related to gambling. Therefore, it is not "match-fixing" as we define it for this document. We are also aware New Zealand athletes have been approached to fix matches in other countries and that officials investigated suspicious betting patterns, possibly related to match-fixing in tennis matches played in New Zealand. At the time of writing, an investigation is underway regarding an allegation of match-fixing in basketball. Recent charges of match-fixing in harness racing are outside the scope of this document.

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books on the same events as the TAB. The TAB also competes with black market options for gambling. More on the black market is provided below.

8. In 2015, the Minister for Racing announced a working group to shed light on the increase in the number of New Zealanders engaging in offshore online racing and sports betting and to address the use of race and sport information by offshore gambling operators. The Offshore Racing and Sports Betting Working Group commissioned research to help its understanding of the value of offshore gambling through corporate operators on New Zealand racing and sports events. Key findings were:
  - Between \$60m and \$225m is bet from offshore on New Zealand sports events each year
  - An estimated 40,000 New Zealander's placed bets offshore in 2015, up from 20,000 – 26,000 in the period 2010 – 2012
  - Around \$58m of gross betting profit (profit after prizes are paid but before tax is deducted) per year goes offshore from New Zealanders making bets with offshore gambling operators.
9. These figures show gambling through commercial operators is rapidly globalising. This has consequences, including an increase in gambling activity on New Zealand sport outside the oversight of the NZRB. There are also more options for criminals to find highly liquid betting markets that might obscure large bets on fixed outcomes. The ability to spread bets across different betting operators to avoid suspicion has also increased. This means there is an increased risk that suspicious gambling activity related to New Zealand sport, including that related to match-fixing, will go undetected.
10. Recent incidents of pitch-siding are indicative of the interest of the gambling industry in live New Zealand sports and the increasing availability of “in-play” betting, i.e. betting on aspects of a game once the game is underway. Pitch-siding (or court-siding) involves a person watching a match live from a sports venue relaying real-time information to another person for gambling purposes, generally attempting to exploit the delay in a televised broadcast. Delays of only a few seconds can be of value to gamblers placing in-play bets. Pitch-siding is more of a threat to legitimate gambling than it is to sport and most gambling operators will be aware of the impact broadcast delays can have on the betting market. However, instances of pitch-siding in recent years show the lengths gamblers are willing to go to make money off New Zealand sport.

### **Increased illegal gambling activity**

11. Global criminal activity concerning corrupt sports betting is increasing, particularly with growth in on-line betting. New options such as on-line live betting during matches also increase the risk of, and create greater opportunity for, spot-fixing. Crypto-currencies like bitcoin and illegal platforms on the dark web (which is much more difficult to observe than the visible internet) can be used to add an additional challenge for tracing illegal gambling transactions. By definition, it is impossible to know how much is spent on illegal gambling. However, Interpol estimated that fraudulent sports betting generated \$US140 billion in turnover in 2010.
12. Threat assessments and intelligence gained by bodies such as Interpol, the Australian Crime Commission, the International Cricket Council (ICC) and investigative experts warn that Australasia is at risk from international crime syndicates looking to expand their current operations in Asia, the Indian subcontinent and Europe.

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13. An Interpol-led operation against illegal gambling conducted throughout Asia during the 2018 Football World Cup involved nearly 15,000 raids of illegal gambling dens, estimated to have handled US\$1.6b of bets.<sup>128</sup>

### **Player reward**

14. Players who earn lucrative salaries, or have real potential to, are not generally targeted by match-fixers. This is because:

- they have more to lose if they are caught fixing, i.e. more disincentive to take a bribe to fix a match
- a lower paid player is more likely to accept a lower bribe to fix a match and therefore more likely to be targeted (because it is cheaper for the person organising the fix)
- any player can influence a match, or part of a match so there is little incentive for organised syndicates to target the highest paid superstars.

15. Athletes approached to fix a match may not consider the future earnings from sport that they could forgo if caught, particularly if they are in immediate financial difficulty. In a competitive environment there may be many athletes earning very little at a sub-elite level competing for few high-value contracts at the elite level. Some of these sub-elite athletes may decide they could earn more through improper channels and could become corrupted. Fewer examples of match-fixing are found at the elite level of international sport where athletes are paid the most. The practice is more common at lower levels of competition. Younger athletes are more likely to be targeted given they may be easier to influence.

16. One match-fixing educator we spoke to estimated that a player could be induced to fix an action for as little as \$500 while an organised syndicate could earn up to \$300,000 profit from gambling on that incident. Extrapolated, the match-fixing educator advises a well-organised syndicate could make \$3m over a weekend.

17. It is worth noting that in many sports New Zealanders are paid less than their overseas counterparts and therefore may be easier to bribe.

### **Time zone**

18. Betting is highly popular in the Indian subcontinent and South-East Asia, the most populated part of the world. New Zealand's time zone means any sport televised in New Zealand can be conveniently viewed in these countries. This means overseas gambling syndicates can gamble on New Zealand sport before matches start in their own countries, giving some New Zealand sport a monopoly on the attention of bookmakers in the region.

### **More access to coverage, including live streaming**

19. Over the last decade the range of sports and levels of sport televised in New Zealand has increased dramatically. Some organisations will live stream events using platforms like Facebook. This has two main implications.

20. First, as lower (more amateur) sport is televised or streamed, more athletes earning less money become potential targets for match-fixing. These athletes also have less knowledge of the dangers of match-fixing and are likely to have received less education about the approaches they could receive and the consequences for their careers of match-fixing. Secondary school sports such as rugby and basketball are now routinely broadcast in New

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<sup>128</sup> <http://www.sportsintegrityinitiative.com/illegal-gambling-raids-arrests-across-asia-interpol-operation/>

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Zealand. Age group representative teams are routinely live streamed in many codes. Youth sports broadcast from New Zealand attract bets in overseas betting markets over which the New Zealand government/authorities have no visibility. Younger athletes may also be more easily influenced.

21. Second, as a wider range of sports are played and televised, there is a greater chance a match run and broadcast from New Zealand will attract the interest of an overseas audience and an organised syndicate based in another country.
22. There are an increased number of competitions played across multiple countries, potentially expanding the international audience for sports, teams and athletes. New Zealanders increasingly play for overseas teams, exposing them to risks we do not necessarily have to the same degree in New Zealand.

### **The perception of New Zealand as non-corrupt**

23. New Zealand's reputation for low-levels of corruption may also act as an incentive for organised criminal syndicates to target New Zealand. This is for two reasons. First, those involved in New Zealand sport may be more naïve to the threats to integrity that could be posed, or may be complacent or less expectant of approaches to fix matches. Second, fellow gamblers may not suspect that a match in New Zealand could be fixed, conceivably making them more likely to bet against fixed outcomes.

## **2/4: Examples of match-fixing from overseas reflect these characteristics**

This section outlines prominent international examples of match-fixing in elite tennis, cricket and football.

### **Independent Review of Integrity in Tennis**

24. Tennis has distinct aspects that make it particularly susceptible to match-fixing. There are many contingencies, a single player can easily act in isolation, there are many independent "plays" for spot-fixing, detection is difficult, and under-performance can sometimes be attributed to 'tanking'. Integrity problems in tennis are greatest where prize money relative to costs, financial resources of tournaments, prospects of advancement, and public interest and attention are lowest. The integrity challenge facing tennis has been greatly exacerbated by the advent of online betting and the sale of official live scoring data.
25. These were all findings of the Tennis Integrity Unit's Independent Review Panel<sup>129</sup> which released an interim report in April 2018. The Panel surveyed more than 3,200 tennis players, of which 464 said they had first-hand knowledge of match-fixing.<sup>130</sup> The report showed no cover-up of improper betting or match-fixing by governing bodies, although there were "errors made and opportunities missed".<sup>131</sup> The report recommended that the International Tennis Federation discontinue the sale of official live scoring data to betting companies, as it creates an environment that encourages corruption. The report also proposed eliminating all betting sponsorships in tennis, especially individual tournaments. Other recommendations included expanding the staffing and reach of the Tennis Integrity

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<sup>129</sup> <http://www.tennisintegrityunit.com/storage/app/media/Independent%20Reviews/IRP-2018/Interim%20Report.pdf>

<sup>130</sup> <https://www.bbc.com/sport/tennis/43894806>

<sup>131</sup> Adam Lewis, a member of the three-lawyer review panel, <https://www.stuff.co.nz/sport/tennis/103387289/tennis-corruption-report-finds-tsunami-of-problems-at-lower-level-events>

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Unit, the anti-corruption group established in 2008, and making public the tournament appearance fees paid to some players to increase transparency. The report did not determine there are widespread problems at ATP, WTA and grand slam tournaments and showed no evidence of top-level players being implicated.

### Match-fixing in cricket

26. Match-fixing is a recognised risk to cricket. Players can be targeted by match-fixers and asked to bowl waywardly, score slowly, to lose their wickets, or behave in other ways for gambling purposes. A recent Al Jazeera documentary, Cricket's Match-Fixers, exposed three former international cricket players who were prepared to take money to fix matches in a tournament in Dubai being set up solely for the purpose of match-fixing.<sup>132</sup>
27. Match-fixing in T20 cricket has been evident in England, Bangladesh, and most notably in India. In 2013, a spot-fixing scandal led to the Rajasthan Royals and Chennai Super Kings being suspended in 2015 for two seasons. Betting is illegal in India meaning it is conducted on unregulated markets, with no oversight.
28. Claims of match fixing in English domestic cricket first emerged in the early 1990s and many people in England initially found them hard to believe. This scepticism was common until the arrest of Mervyn Westfield, the first English cricketer to be convicted of spot-fixing.<sup>133</sup>
29. One of the most famous match-fixing scandals involved Hansie Cronje and South African cricket.<sup>134</sup> In 2000, Cronje was charged with fixing one day international matches against India for money by Delhi Police. Cronje was sacked after admitting his dishonesty. Later that year, testimonies by current and former players to South Africa's King's Commission revealed that the allegations went back to the mid-1990s and included Test cricket as well as one day international matches. Cronje received a life ban from cricket.

### Fixing in Australian soccer

30. A match-fixing incident in Australian soccer involved players and staff engaged with the Southern Stars, a football club in the second-tier Victorian Premier League. Irregular betting patterns associated with at least five Southern Stars games were detected by the internet betting integrity monitoring agent, Sportradar. Six people including the coach, four players and a Malaysian national were subsequently charged by Victorian Police and convicted.<sup>135</sup> The Malaysian national acted as liaison between the coach and players and a betting syndicate based in Hungary and Malaysia. The syndicate is reported to have made an estimated \$2m between 21 July and 13 September 2013 on the five thrown games. Video showed 'unusually poor play' by some of the players in the bottom-placed team.
31. The coach cited his participation in the fix was to ensure the club could pay its players, while the motivating factor for the players' involvement in corrupting the outcome of a betting event was poor salaries. The coach and four players were suspended by the

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<sup>132</sup> <https://www.aljazeera.com/news/2018/05/exclusive-al-jazeera-exposes-players-cashing-match-fixing-180527185836956.html>

<sup>133</sup> <http://www.espnricinfo.com/magazine/content/story/554085.html>

<sup>134</sup> <http://www.espnricinfo.com/ci/content/story/654219.html>

<sup>135</sup> <https://www.theaustralian.com.au/sport/football/six-charged-over-soccer-match-fixing-scandal/news-story/5dd028c3990ce5fa0efb47c60306d27b>

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Football Federation of Australia (FFA) in October 2013 for breaches of the FFA's National Code of Conduct.<sup>136</sup>

**MF1** To what extent is match-fixing a risk for the sports you are involved with? Please explain your answer.

### 3/4: Current protections in place in New Zealand

This section details the current protections in place in New Zealand to prevent and monitor match-fixing, including:

- relevant legislation
- the New Zealand Policy on Sports Match-fixing and Related Corruption
- the NOZC's Integrity Regulation
- The Role of the New Zealand Racing Board.

#### Match-fixing is an offence under the Crimes Act 1961

32. In 2014 the government amended the Crimes Act to ensure match-fixing is criminalised. Section 240A was inserted to clarify that:

*For the purposes of section 240, deception includes any act or omission that is done or omitted with intent to influence a betting outcome of...sporting competitions, games, matches, races, and rallies involving human participants (whether or not they also involve equipment, horses, vehicles, or vessels) [and] dog races.<sup>137</sup>*

33. The Act does not criminalise every possible way a match can be manipulated. The Act targets match-fixing with the following characteristics:

- It covers manipulation of any sporting activity, including racing
- It covers manipulation of final results and events within the match (i.e. it includes spot-fixing)
- The manipulation of a match must be motivated by an intent to influence a betting outcome, either in a regulated or unregulated market.

34. The maximum penalty for this offence is seven years' imprisonment. Sport NZ is not aware of any legal action taken or attempted to be taken under this section relating to sport (i.e. outside of racing). As far as we are aware, this new provision is untested in regard to sport.

35. Section 240A relies on acts or omissions done with the intent to influence a betting outcome. It could not be used to take legal action against a person sharing information that could be used to match-fix or spot-fix if they did not intend for the information to be used that way. The provision was designed this way to avoid creating a very broad offence.

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<sup>136</sup> <http://www.abc.net.au/news/2013-10-25/ffa-bans-accused-match-fixers/5046854>

<sup>137</sup> The full section is in Annex 3.

<b>MF2</b>	Are you aware that match-fixing is an offence under the Crimes Act 1961? If so, how were you made aware?
<b>MF3</b>	Are you aware of any legal action taken or considered under section 240A of the Crimes Act? If so, please provide details.
<b>MF4</b>	Are you aware of any legal action taken or considered under any other legislation or provision in the Crimes Act in regard to match-fixing? If so, please provide details.
<b>MF5</b>	Are you aware of any reasons why information relating to match-fixing attempts would not be reported to the Police? Please explain your answer.

## New Zealand Policy on Sports Match-Fixing and Related Corruption

36. This policy was developed by Sport NZ and launched in April 2014. It provides a national approach to address risks from match-fixing to the integrity of New Zealand sport. It provides the framework for the collaboration between multiple government agencies, NSOs and the gambling industry needed to tackle match-fixing. In the year to 10 May 2018 it was downloaded 80 times by 75 users.
37. The policy is available here: <https://sportnz.org.nz/assets/Uploads/attachments/managing-sport/integrity/New-Zealand-policy-on-sports-match-fixing-and-related-corruption.pdf>
38. The policy consists of Part A: Cross-sector responsibilities and Part B: NSO responsibilities.
39. Sport NZ and HPSNZ also have an internal anti-match-fixing policy which imposes obligations on certain staff members, such as a requirement not to misuse any inside information a staff member may have about a particular match or event.

### Part A: Cross-sector responsibilities

40. The main components of Part A are set out below

#### *Clarity around the roles of the relevant organisations*

41. This section sets out the roles of the organisations with an interest in match-fixing and their commitment to work together. The organisations agreeing to the policy are Sport NZ, HPSNZ, NZOC, NZRB, NZ Athletes Federation, Department of Internal Affairs, Ministry of Justice, SFO, the New Zealand Police (including the unit responsible for countering organised financial crime) and DFSNZ.

#### *The legal framework*

42. In this section the relevant agencies commit to collaborate to ensure there is a strong legislative and regulatory framework to prevent and address match-fixing. This includes a commitment to regularly assess the provisions of the Crimes Act. Relevant agencies will also work together to investigate and prosecute any match-fixing.

#### *Commitments by NZRB*

43. NZRB commits to:

- Work with other agencies to protect sport integrity
- Regularly review its sport betting rules and model sports betting agreement to consider if anti-match-fixing provisions could be strengthened
- Facilitate information sharing with NSOs where permitted by law

- Collaborate with agencies as permitted by law.

#### *International collaboration*

44. Sport NZ will support a strategic approach to international collaboration to combat match-fixing across the sports and government sectors. This will include supporting forums such as the International Olympic Committee's Working Group on Irregular and Illegal Betting in Sport, considering international frameworks, aligning regimes and collaboration, and facilitating international intelligence sharing between NSOs and betting and law enforcement agencies.

#### **Part B: NSO responsibilities**

45. The main components of Part B are set out below.

#### *An obligation to comply for all NSOs operating in New Zealand*

46. All sports which receive investment from Sport NZ and/or HPSNZ were required to comply with the Policy by a certain date, at which point compliance with the policy was to become a requirement of Sport NZ/HPSNZ investment criteria for all NSOs. This deadline has been extended by Sport NZ several times to allow NSOs, particularly very small ones, greater time to comply. Sport NZ has offered assistance to various NSOs to help them comply with the Policy, but some have not seen it as a priority.

#### *An obligation to have rules*

47. Each NSO has an obligation under the Policy to have rules regarding how the NSO will prevent and respond to match-fixing activity, and the expectations and requirements of its athletes and the broad entourage. The rules must meet stipulated requirements as set out in Annex 4 of this document. Sport NZ has produced model rules for NSOs to use as a basis for their own rules.

<b>MF6</b>	Are you involved with a sport organisation that is a recipient of funding from Sport NZ and/or High Performance Sport NZ and thereby obliged to adopt the New Zealand Policy on Sports Match-Fixing and Related Corruption?
<b>MF7</b>	<i>Please only answer if you answered yes to MF6</i> Has your organisation developed rules to prevent and respond to match-fixing activity? Are they publicly available?
<b>MF8</b>	<i>Please only answer if you answered yes to MF6</i> Has your organisation used the model match-fixing rules provided by Sport NZ? If you have, did you find them useful? Why/why not? Please explain your answer.
<b>MF9</b>	<i>Please only answer if you answered yes to MF6</i> If your organisation has not adopted the rules provided by Sport NZ regarding match-fixing, what assistance would it need to do so?
<b>MF10</b>	<i>Please only answer if you answered yes to MF6</i> To what extent do you feel your organisation is managing the risk of match-fixing appropriately? Please explain your answer.

#### *An obligation to have an education programme*

48. NSOs have an obligation under the Policy to have an education programme in place so that everyone linked to the organisation clearly understands the NSO's requirements and is

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aware of prevention strategies. Our initial conversations with NSOs suggest implementation of match-fixing education is inconsistent, particularly with smaller sports.

49. Sport NZ developed an online match-fixing education programme through the Sport Tutor platform that NSOs can access free of charge.<sup>138</sup> As of 8 May 2018, only 78 users had completed the online course. Once complete, users will understand:

- what match-fixing in sport is
- who is working to protect New Zealanders from match-fixing
- potential consequences from match-fixing and corruption
- what to do if they suspect match-fixing
- types of behaviours that put you at risk of being a target
- it is not just athletes that can potentially be involved
- how a person should behave responsibly in relation to sport betting and anti-corruption
- guiding principles to protect themselves and their sport from match-fixing.

**MF11** Has your organisation implemented a match-fixing education programme? Does your organisation need more support in this area? Please explain your answer.

*An obligation to have protection and support mechanisms*

50. NSOs are obliged under the Policy to have protection and support mechanisms in place for personnel who may come in contact with, or be involved in, match-fixing activity or to limit risky situations where this might occur.

**MF12** *Please only answer if you answered yes to MF6*  
Has your organisation implemented protection and support mechanisms around match-fixing? Does your organisation need more support in this area? Please explain your answer.

*An obligation to work with NZRB*

51. The Policy obliges NSOs to work with NZRB through their betting agreements to further manage match-fixing risks by working with the NZRB to identify bet types which will be jointly reviewed by the NSO and NZRB regularly. More on NZRB is provided below.

*An obligation to collaborate and exchange information*

52. NSOs have an obligation under the Policy to collaborate and exchange information regarding matters relating to match-fixing with Sport NZ, law enforcement and other agencies.

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<sup>138</sup> <https://www.sporttutor.nz/pages/coursedescription.jsf?courseid=152179>

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**MF13** *Please only answer if you answered yes to MF6*

If a match-fixing issue arose would your organisation know who to inform? If yes, who would that be?

*Sport NZ will assist and monitor implementation*

53. This is the counterpart to the obligation on NSOs to comply with the Policy and, as such, it is covered above.

54. The Policy also obliges Sport NZ to provide resources to assist NSOs in their implementation of the policy. Sport NZ has provided model match-fixing rules, forums for presenting match-fixing information, and educational material.

**MF14** *Please only answer if you answered yes to MF6*

Does your organisation comply with the New Zealand Policy on Sports Match-Fixing and Related Corruption? How has your organisation found complying with the New Zealand Policy on Sports Match-Fixing and Related Corruption? Does your organisation need more support in this area? Please explain your answer.

**MF15** Do you have any comments on the content of the New Zealand Policy on Sports Match-Fixing and Related Corruption?

**MF16** *Please only answer if you answered yes to MF6*

Has your organisation taken any enforcement action under its match-fixing policy? Please provide details as you are willing.

## **NZOC's Integrity Regulation**

55. NZOC's Integrity Regulation applies to the member federations. This helps to ensure that athletes representing New Zealand at the elite level are subject to rules and requirements that limit the risk of match-fixing. The NZOC Integrity Regulation is in three parts:

- Part A pertains to anti-doping
- Part B pertains to match-fixing, betting and corruption
- Part C pertains to support staff.

56. The Part B provisions work in conjunction with Sport NZ's requirements for NSOs. Under the NZOC Integrity Regulation, member federations are obliged to:

- Adopt rules or policies to combat prohibited sports betting, match-fixing and corruption which are consistent with the New Zealand Policy on Sports Match-Fixing and Related Corruption. NZOC has been active in encouraging its member federations to adopt the Policy.
- Appoint a contact point to be responsible for overseeing the member federation's management of integrity matters
- Disclose any breaches or potential breaches of the member federation's rules relating to the above to NZOC, IOC, the relevant international federation and relevant government agencies.

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57. Under the Integrity Regulation:

- All betting on Games events is banned for athletes and support staff, as is encouraging a person to bet on a Games event
- Athletes and Support Staff will be also be made aware of their obligation/duty to report any attempt at illegal/prohibited sports Betting, match-fixing or corruption they have witnessed or been exposed to during the Games Period, as well as co-operate in the event of an inquiry.

58. The Integrity Regulation also sets out a procedure for alleged violations which includes:

- During the Games, the NZOC may take such steps that it considers appropriate. Any violation of occurring during the Games Period will also be determined by the IOC, in accordance with the IOC Code, or the Commonwealth Games Federation (CGF), whichever is applicable.
- A violation outside of the Games will be determined in accordance with the rules of the relevant member federation.
- The NZOC will recognise and respect all determinations made by the IOC, CGF, Member Federation, International Federation and/or Government Agencies.
- In the event that an Athlete or Support Staff member is proved to have committed an illegal/prohibited sports Betting, match-fixing or corruption violation (whether or not in the Games Period), any funding by or through the NZOC shall be withheld during any period of ineligibility.

### **The Role of the New Zealand Racing Board and the Racing Act**

59. The NZRB's gross betting revenue (from all forms of betting) for 2015/16 was \$342.3 million, consisting of \$294.1 million derived from betting on racing and \$48.2 million derived from betting on sport. In 2015/16, the NZRB's turnover from all forms of betting was \$2.27 billion. Match-fixing is a threat to legitimate gambling so the NZRB has a number of initiatives to counter the activity.

### **The NZRB must have written agreements with the NSOs**

60. Under the Racing Act, the NZRB must have a written sports betting agreement with an NSO before it can conduct betting on that sport, including matches that take place overseas and which have no formal connection to the New Zealand NSO. For example, the NZRB needs a betting agreement with New Zealand Football to offer bets on the English Premier League football competition. Amongst other things, a sports betting agreement will set out the percentage of sports betting revenue an NSO will receive from the NZRB.

61. The NZRB's model agreement requires that, at a minimum, NSOs must have regulations relating to betting in place, which, in particular, must prevent relevant persons (including players, coaches etc) who participate in authorised events from betting on those authorised events.

62. Sport NZ expects NSOs to also use their betting agreements to further manage match-fixing risks by working with the NZRB to identify bet types which will be jointly reviewed by the NSO and NZRB regularly, over the term of the betting agreement. NZ Rugby is an example of an NSO that utilises its agreement with the NZRB to monitor betting activity of those employees and players who have TAB betting accounts in respect of any betting on rugby.

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**MF17**

*Please only answer this question if you are from a national sport organisation*

How does your organisation use its sports betting agreement with the New Zealand Racing Board to manage match-fixing risks?

### **NZRB adheres to the New Zealand Policy on Sports Match-Fixing and Related Corruption**

63. As noted above, NZRB adheres to the New Zealand Policy on Sports Match-Fixing and Related Corruption. The policy encourages NSOs to consider using their sports betting agreements to:

- restrict or prohibit 'spot' bets (i.e. bets on particular actions within matches which are more easily manipulated than, for example, overall match results)
- agree with the NZRB that maximum wager amounts are capped at modest levels for the types of bets or formulae for which associated actions are most easily manipulated, such as 'spot' bets, if permitted
- restrict other types of bets which may have higher risks regarding match-fixing, such as bets on minors or in competitions predominantly involving minors, depending on the circumstances
- include agreed protocols for timely information and intelligence sharing between the NSO and the NZRB to support preventative and investigative measures.

### **The Betting Rules contain protections**

64. Sports betting is conducted under the Betting Rules produced by the NZRB in accordance with the Racing Act. The Betting Rules set guidelines for the administration and conduct of betting in sport and thereby can protect against match-fixing.

65. Under these rules, the NZRB can take actions including:

- refusing/cancelling bets if the NZRB considers there is a risk of corrupt betting
- monitoring betting to prevent corruption – including monitoring the sports betting activities of a 'Relevant Person' (person associated with an 'Authorised Event' of a 'Selected Sport'), giving information about a 'Relevant Person' to an applicable NSO (the NSO may also seek certain information relating to a 'Relevant Person'), or taking certain actions to prevent that individual from betting New Zealand Policy on Sports Match-Fixing and Related Corruption
- limiting maximum returns available to individuals from certain types of bets in any one day's business, thereby limiting the benefit a person could gain from match-fixing.

### **The NZRB supports education programmes**

66. The NZRB supports education on the risks associated with sports betting. The NZRB conduct Responsible Gambling and Integrity Workshops which are available to NSOs as part of their relationships with the NZRB.

### **The NZRB undertakes monitoring and investigation**

67. The NZRB undertakes actions of this nature to prevent match-fixing including:

- monitoring the betting accounts of professional players in selected codes and sharing information with NSOs, where appropriate

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- monitoring all deposits over a pre-set significant amount
  - monitoring the price fluctuations of the NZRB's fixed odds books for unusual activity
  - investigating any unusual betting activity (tote or fixed odds).

**MF18**

Do you think the New Zealand Racing Board should take any additional action to counter match-fixing?

#### **4/4: International coordination**

This section provides some brief information on New Zealand's commitments to combat corruption at the London Anti-Corruption Summit and the Macolin Convention.

68. In 2016, New Zealand made commitments to combat corruption at the London Anti-Corruption Summit. The most significant commitment was for New Zealand to nominate a representative to the International Anti-Corruption Coordination Centre (IACCC). The aim of the IACCC is to help investigators of corruption work together across multiple jurisdictions. The IACCC will focus on cases of high level corruption with an international element. With specific regard to sport, New Zealand committed to work with international sports bodies to develop a partnership for combating corruption in sport.<sup>139</sup>

#### **Convention on the Manipulation of Sports Competitions (the Macolin Convention)**

69. The Convention on the Manipulation of Sports Competitions (the Macolin Convention) was opened for signature in September 2014, at the Council of Europe Conference of Ministers responsible for Sport in Macolin, Switzerland.

70. The Convention aims:

- to facilitate national co-ordination and international co-operation against the threat of the manipulation of sports competitions, whether this is linked to criminal activity or to sports betting, or not
- to establish a set of standards and measures at international level to be implemented by public authorities, sport organisations and betting operators in order to prevent and combat manipulations of sports competitions
- to set up an international framework for the monitoring of these measures.

71. New Zealand supports the general intent of the Convention but has not signed to become a party. Some of the obligations on parties would entail a cost to New Zealand, and potentially legislative changes. The Convention is a multilateral Treaty which means there is a strict process that must be followed to consider the costs and benefits before New Zealand could sign the Convention. This includes:

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<sup>139</sup> <https://www.beehive.govt.nz/release/new-zealand-strengthens-commitment-combat-bribery-following-london-anti-corruption-summit>

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- officials preparing a national impact analysis (NIA) to set out the costs and benefits to New Zealand of becoming a party to the agreement
  - Cabinet approving the final text of the agreement and giving authority for New Zealand to sign it
  - the Treaty and NIA being presented to the House of Representatives
  - Select Committee considering the Treaty, NIA, and any public submissions on the document, and reporting back to the House. If the Select Committee has recommendations to Government, a Government response to these must be tabled within 90 days of the report.

**MF19**

Do you have any other comments in relation to match-fixing?

# Annex 1: Common prohibited substances

Some common substances that are prohibited in sport are described in the table below, together with some of their more significant adverse effects.

Drug	Intended effect	Potential adverse effects	Used by
Anabolic agents, e.g. anabolic steroids such as testosterone, androstenedione, stanozolol, nandrolone, methandrosteolone; and other anabolic agents, e.g. clenbuterol, selective androgen receptor modulators (SARMs)	<p>An increase in ability to do work and exercise by abnormally stimulating muscle growth, power and aerobic capacity.</p> <p>Anabolic steroids increase the production of proteins that help build muscle and other body tissue. They increase protein synthesis and decrease protein degradation.</p>	<p><b>In males:</b> suppression of normal testosterone production, causing reduced testicle size, decreased sperm production, premature baldness, and breast enlargement.</p> <p><b>In females:</b> masculinisation with loss of body fat diminished breast size, clitoral enlargement, deepening of the voice, and the development of facial and body hair in a male distribution.</p> <p>Life-threatening adverse effects include increased risks of heart attack and stroke, deep vein thrombosis and pulmonary embolus, liver cancer, and liver failure.</p> <p>Other adverse effects may include severe acne, uncharacteristic mood swings, and aggression.</p>	Athletes seeking increased strength and power by looking to increase muscle mass and capacity for exercise, and decrease body fat.
Stimulants, e.g. thermogenic fat burners, appetite suppressants, thyroid regulating fat burners, fat blockers, cortisol blockers, cocaine, benzylpiperazine (BZP)	Weight loss or increase in power-to-weight ratio by reducing fat. Different types of fat burners purportedly do this different ways, e.g. by increasing metabolism, stopping the body from digesting carbohydrates (and “absorbing” calories), preventing the body from “absorbing” fat. Can also stimulate an athlete metabolically or mentally.	<p>Quickened heart rate, bloating, abdominal pain, upset digestive system.</p> <p>Mixing some stimulants with diabetic medication may cause blood sugar to drop dangerously low.</p>	Athletes looking for enhanced weight loss for “weight-regulated” sports or to satisfy perceived body image demands. Also, athletes wanting a stimulatory effect, particularly if training or competing while calorie-restricted.
Hormone and metabolic modulators, e.g. antioestrogens, selective estrogen (sic) receptor modulators (SERMs), aromatase inhibitors	Negating the oestrogenic effects of anabolic steroids in male athletes by inhibiting excess testosterone being converted to oestrogen, decreasing oestrogen production or inhibiting tissues’ response to oestrogen.	Hot flashes, increased risk of blood clots, joint or muscle pain, joint inflammation.	<p>Male athletes attempting to reverse or mask the estrogenic effects of anabolic steroids.</p> <p>SERMs also used to restore natural testosterone production following use of exogenous steroids.</p>

Drug	Intended effect	Potential adverse effects	Used by
Peptide hormones and growth factors, e.g. growth hormones; insulin-like growth factor, such as IGF-1, IGF-2; peptide hormones; Erythropoietin (EPO)	<p>Growth hormones stimulate growth by stimulating cell reproduction and regeneration. They can increase muscle mass, accelerate muscle recovery and recovery from injury, increase endurance, and reduce fat.</p> <p>Promotes muscle growth and the formation of new muscle cells. Users can increase muscle mass, reduce body fat, and improve recovery from exertion.</p> <p>EPO is used to enhance the manufacture of red blood cells thereby improving the oxygen carrying capacity of the blood. This results in enhanced aerobic capacity and increased endurance.</p>	<p>Skin irritation at point of injection, swelling, rapid weight gain, muscle or joint pain, numbness or tingling, stomach pain, headaches, back pain, cold and flu symptoms.</p> <p>Dangerously low blood sugar levels. Accelerated tumour growth, heightened risk of cancer and enlargement of internal organs.</p> <p>Increasing the red cell population results in an increase in blood viscosity, greatly increasing the risk of blood clots leading to stroke and heart attacks.</p>	Athletes looking to grow muscle, decrease fat and enhance their capacity for endurance events.
Beta-2 Agonists, e.g. higenamine, salbutamol	Used legitimately to treat asthma. On the Prohibited List because in larger doses are believed to have an anabolic effect. Also have a metabolic effect which can contribute to a leaner body mass.	Palpitations, sweating, anxiety, insomnia, agitation.	Athletes aiming to improve endurance and lower body fat.
Beta blockers, e.g. beta-adrenergic blocking agents, beta antagonists, beta-adrenergic antagonists	Reduced heart rate, blood pressure, involuntary muscle spasms and anxiety.	Nausea, vomiting, abdominal cramps, diarrhoea, weight gain, blurred vision, insomnia, hair loss, disorientation, heart problems.	Athletes in archery, golf, darts, and snow sports events involving jumps and halfpipe.

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# Annex 2: Regulation of supplements and sports foods

1. Some products sold in stores that specialise in supplements may be classified as food and regulated as such. Simple protein powders may fall into this category.
2. All food, including dietary supplements cannot:
  - contain controlled drugs – dietary supplements cannot contain ingredients scheduled as controlled drugs under the Misuse of Drugs Act 1975
  - contain substances listed in the First Schedule to the Medicines Regulations 1984 – dietary supplements cannot contain ingredients that are scheduled as prescription medicines, restricted (pharmacist-only) medicines or pharmacy-only medicines under the Medicines Act 1981
  - have a stated or implied therapeutic purpose - the definition of a therapeutic purpose is given in the Medicines Act 1981
  - contain psychoactive substances.
3. There are restrictions on the claims that can be made on food (noting that dietary supplements have slightly different requirements under the Dietary Supplement Regulations). Foods can make claims as provided for in Standard 1.2.7 of the Australia New Zealand Food Standards Code. This includes the criteria for making a self-substantiated health claim of a relationship between a food or property of food and a health effect (food-health relationship) which has been established by a process of systematic review.
4. All foods, including dietary supplements, are subject to provisions of the Biosecurity Act 1993. The Biosecurity Act Legislation was enacted to protect New Zealand's environment, plants and animals from unwanted pests and diseases.

## The Dietary Supplements Regulations 1985

5. These Regulations are administered by Medsafe. They were made under the Food Act 1981 and continue to be given effect by the Food Act 2014,<sup>140</sup> which is administered by the Ministry for Primary Industries.
6. The regulations describe a number of requirements including, but not limited to, labelling and maximum permitted daily doses for several vitamins and minerals. There is no pre-approval process for products regulated by these regulations. It remains the responsibility of the person legally responsible for placing the product on the market to ensure the product is made to an acceptable quality, is safe to use and complies with the law. It is also the responsibility of any supplement users to know what they are ingesting. The Regulations have a less intensive approach in regulating dietary supplements than for food or medicine.
7. The Food Act requires that importers of any food for sale be registered with the Ministry for Primary Industries. This includes importers of dietary supplements. Dietary supplements

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<sup>140</sup> <http://www.legislation.govt.nz/act/public/2014/0032/75.0/DLM2995811.html>

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should be manufactured, packed and sold in a manner that complies with the Food Act 2014 and the Food Regulations 2015.

8. Dietary supplements must meet additional requirements if they contain folic acid or ingredients from animals and animal products.
9. The Food Act provides the Dietary Supplements Regulations will expire in March 2021. Officials are considering options for future regulation prior to the expiry of these regulations.

#### **Standard 2.9.4 of the Australia New Zealand Food Standards Code – formulated supplementary sports foods**

10. Formulated supplementary sports foods are products that are specifically formulated to assist sports people in achieving specific nutritional or performance goals and are regulated under the trans-Tasman Food Standards Code. Standard 2.9.4 prescribes the types and amounts of vitamins, minerals, amino acids and other substances that may be added. These products are required to have 'Formulated Supplementary Sports Food' on the label.

#### **Standard 2.6.2 of the Australia New Zealand Food Standards Code – electrolyte drinks**

11. This trans-Tasman standard covers non-alcoholic beverages and brewed soft drinks. It defines an electrolyte drink as “a drink formulated and represented as suitable for the rapid replacement of fluid, carbohydrates, electrolytes and minerals”. An electrolyte drink base is defined as “a solid or liquid which, when made up, makes an electrolyte drink”. The standard sets out the requirements and permitted composition of electrolyte drinks and electrolyte drink bases.

#### **New Zealand Food (Supplemented Food) Standard 2016**

12. Supplemented food is a product that is represented as a food, but it has been modified in some way or had substances added to it so that it performs a physiological role. The supplements or modification mean it provides more than simple nutrition.<sup>141</sup>
13. Supplemented foods must meet the requirements of the NZ Food (Supplemented Food) Standard 2016. The main differences in requirements between supplemented food and other food are:
  - fewer restrictions on the use of vitamins, minerals, amino acids and bio-active substances
  - the requirement to have 'supplemented food' on the label.
14. Supplemented foods must not be specifically formulated or marketed for children under the age of four.

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<sup>141</sup> <http://www.mpi.govt.nz/food-safety/labelling-and-composition/applying-labelling-and-composition-requirements/supplemented-food/>

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# Annex 3: Section 240A of the Crimes Act

## 240A Application of section 240 to match-fixing

(1) For the purposes of [section 240](#), **deception** includes any act or omission that is done or omitted with intent to influence a betting outcome of an activity of a kind to which subsection

(2) applies by manipulating—

(a) the overall result of the activity; or

(b) any event within the activity.

(2) This subsection applies to activities of the following kinds:

(a) sporting competitions, games, matches, races, and rallies involving human participants (whether or not they also involve equipment, horses, vehicles, or vessels):

(b) dog races.

(3) This section does not limit or affect the generality of [section 240](#).

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# Annex 4: Requirements for match-fixing rules set by NSOs

What follows is an extract from the New Zealand Policy on Sports Match-Fixing and Related Corruption.

## 8. Match-fixing rules

8.1 Each NSO must have rules regarding how the NSO will prevent and respond to match-fixing activity, and the expectations and requirements of its athletes and the broad entourage. The rules must:

- a) include provision for at least one NSO officer responsible for matters relating to overseeing the NSO's anti-match-fixing measures
- b) apply to as wide a range of persons associated with the NSO as considered necessary by the NSO for the purposes of this policy, which may include staff and officers of the NSO (eg management, administrative staff, professional or amateur players, coaches, support staff and umpires participating in the sport at relevant levels) and associated people such as player agents
- c) subject to clause 8.2 below, as considered necessary by the NSO for the purposes of this policy, restrict the personnel to whom the rules apply from:
  - i. betting, gambling or entering into any other form of financial speculation on any match under the jurisdiction of, or connected to, the NSO
  - ii. failing, for any money, benefit or reward (including, in particular, associated with a betting arrangement), to perform as reasonably expected to their abilities in, or withdrawing completely from, any match
  - iii. taking action reasonably likely to ensure the occurrence of a particular incident in a match (including, in particular, associated with a betting arrangement), other than for legitimate tactical sporting reasons within the rules of the sport, for which any money, benefit or reward is expected
  - iv. using, or providing to any person, inside information<sup>7</sup> where it might reasonably be expected the information could be used for betting purposes, other than for genuine business or organisational purposes
  - v. receiving, taking an action with the expectation of receiving, or providing or offering to provide any gift or other benefit in circumstances that might be reasonably expected to bring the person engaging in the action, the NSO or sport into disrepute
  - vi. knowingly helping with, covering up or otherwise being complicit in any of the actions listed in clauses i-v
  - vii. inducing, instructing, encouraging or facilitating anyone to engage in any of the actions listed in clauses i-v
  - viii. attempting any of the actions listed in clauses i-vii
  - ix. engaging in any other form of corrupt conduct, as defined by the NSO, regarding any match or involving an athlete or team under the jurisdiction of, or connected to, the NSO

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x. engaging in any conduct relating directly or indirectly to any of the actions listed in clauses i-ix, which is prejudicial to the interests of the sport or which brings the person engaging in the conduct, the NSO, or its sport into disrepute

d) require the personnel to whom the rules apply to:

i. promptly disclose to the NSO full details of their knowledge of any acts, incidents, approaches, invitations or threats relating to themselves or any other person regarding any of the restricted actions in clause c) above

ii. cooperate fully with any reasonable investigation carried out by the NSO regarding any match-fixing related matters, including providing any requested information

e) specify a match-fixing incident reporting and investigation mechanism

f) specify a disciplinary framework detailing meaningful penalties (e.g. ranging from warnings to player suspensions and permanent exclusion, reflecting the severity of the breach) for engaging in any of the restricted actions in clause c) or failing to take the required actions in clause d), which is broadly consistent with those of other sporting codes (including broadly consistent penalties), and includes an appeals mechanism such as referral to the Sports Tribunal of New Zealand.

8.2. None of the measures specified in this policy prevent:

a) taking action for genuine medical or tactical reasons solely related to the outcome of a sporting event within an NSO's rules for its sport and not for any other money, benefit or reward

b) investment in, or financial support for, a team in accordance with normal commercial practices.

# Annex 5: Acronyms

ACC	Accident Compensation Corporation	iNADO	Institute of National Anti-Doping Organisations
ACU	Anti-Corruption Unit	IOC	International Olympic Committee
ADRV	Anti-Doping Rule Violation	NADO	National Anti-Doping Organisation
AFL	Australian Football League	NIA	National Interest Analysis
AIU	Athletics Integrity Unit	NRL	National Rugby League
ASADA	Australian Sport Anti-Doping Authority	NSO	National Sport Organisation
ATP	Association of Tennis Professionals	NTP	National Testing Pool
BZP	Benzylpiperazine	NZOC	New Zealand Olympic Committee
CAS	Court of Arbitration for Sport	NZRB	New Zealand Racing Board
CCES	Canadian Centre for Ethics in Sport	OECD	Organisation for Economic Cooperation and Development
CGF	Commonwealth Games Forum	PCBU	Person conducting a business or undertaking
CIRC	Cycling Independent Reform Commission	PE	Physical education
CPO	Child protection officer	PIED	Performance or Image Enhancing Drug
DFSNZ	Drugfree Sport New Zealand	PNZ	Paralympics New Zealand
EPO	Erythropoietin	RIU	Racing Integrity Unit
ERA	Employment Relations Act	RTP	Registered Testing Pool
FBI	Federal Bureau of Investigation	SADR	Sports Anti-Doping Rules
FFA	Football Federation Australia	SAIDS	South African Institute for Drug-Free Sport
FIFA	Fédération Internationale de Football Association	SARMs	Selective Androgen Receptor Modulators
FIFPRO	Fédération Internationale des Associations de Footballeurs Professionnels	SERMs	Selective Estrogen Receptor Modulators
FINADA	Finnish Antidoping Agency	SFO	Serious Fraud Office
FINCIS	Finnish Center for Integrity in Sports	SSC	State Services Commission
GDP	Gross domestic product	TUE	Therapeutic Use Exemption
GST	Goods and services tax	UCI	International Cycling Union
HIA	Head Injury Assessment	UEFA	Union of European Football Associations
HPSNZ	High Performance Sport New Zealand	UKAD	United Kingdom Anti-Doping
HSWA	Health and Safety at Work Act	UNESCO	United Nations Educational, Scientific and Cultural Organization
IAAF	International Association of Athletics Federations	USADA	United States Anti-Doping Agency
IACCC	International Anti-Corruption Coordination Centre	WADA	World Anti-Doping Agency
ICC	International Cricket Council	WTA	Women's Tennis Association
IGF	Insulin-like Growth Factor		