

Proactive Release: Integrity Sport and Recreation Bill - Approval for Introduction



Minister	Hon. Grant Robertson	Portfolio	Sport and Recreation
Title of Cabinet Paper	Integrity Sport and Recreation Bill: Approval for Introduction	Date of Issue	10 May 2023

These documents have been proactively released:

<i>Date</i>	<i>Title</i>	<i>Author</i>
March 2023	Integrity Sport and Recreation Bill: Approval for Introduction	Hon. Grant Robertson, Minister for Sport and Recreation
20 March 2023	Protecting and Promoting the Integrity of Sport and Active Recreation CBC-23-MIN-0006	Cabinet Business Committee
27 March 2023	Report of the Cabinet Business Committee: Period Ended 24 March 2023 CAB-23-MIN-0096	Secretary of the Cabinet

Information redacted

Some parts of this information release are not appropriate to release and, if requested, would be withheld under the Official Information Act 1982 (the Act). Where this is the case, the applicable sections of the Act have been noted.

Information has been withheld from this release under the following grounds of the Official Information Act 1982:

- Out of Scope

No public interest has been identified that would outweigh the reasons for withholding this information.

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In Confidence

Office of the Minister for Sport and Recreation

Cabinet Business Committee

Integrity Sport and Recreation Bill: Approval for Introduction

Proposal

- 1 This paper seeks approval for the introduction of the Integrity Sport and Recreation Bill (the Bill) as an omnibus bill under Standing Order 267(1)(a).

Policy

Strengthening the integrity system for sport and physical recreation

- 2 The single broad policy of the Bill is to strengthen and protect the integrity of New Zealand's sport and physical recreation sector by establishing an independent body and consolidating integrity functions within it.
- 3 Internationally there have been growing concerns relating to integrity in sport and physical recreation, including about:
 - 3.1 corruption and match-fixing;
 - 3.2 bullying, harassment and abuse, including of children and young people;
 - 3.3 interpersonal and structural racism; and
 - 3.4 insufficient governance arrangements and complaints systems.
- 4 Aotearoa New Zealand is not immune to these risks. The last decade has seen a number of concerns about athlete and participant welfare, bullying, abuse, and inappropriate behaviour and culture come to public attention, including in football, gymnastics, cycling, hockey, and canoe racing.
- 5 The 2018 Sport Integrity Review by Sport NZ and High Performance Sport New Zealand (HPSNZ) and the report of the Play, Active Recreation, and Sport Integrity Working Group in April 2022 highlighted these concerns and the ability of the current system to appropriately manage integrity issues.
- 6 We also know that integrity issues have disproportionate impacts on specific populations and communities. For example, women are more likely than men to encounter harassment, bullying, and abuse in sports, and have less confidence those incidents will be adequately managed. Māori and Pacific peoples have also reported inequity and discrimination in sport and physical

recreation. Similarly, research indicates that rainbow communities and disabled people are disproportionately affected by discrimination and bullying in sport environments.

- 7 Consequently, in June 2022 Cabinet agreed in-principle to establish an entity to strengthen and protect the integrity of the sport and active recreation system to ensure it is safe, fair, and inclusive for all participants [SWC-22-MIN-0096 and CAB-22-MIN-0210 refer].
- 8 On 3 October 2022, Cabinet confirmed its in-principle decision to establish a standalone integrity entity for sport and active recreation. Cabinet also agreed to the purpose, functions, powers and governance arrangements of the new entity [SWC-22-MIN-0166 and CAB-22-MIN-0419].

Establishing the Integrity Sport and Recreation Commission

- 9 The Bill will establish a new independent Crown entity called the Integrity Sport and Recreation Commission (the Commission). Legislation is required to establish a new independent Crown entity.
- 10 The purpose of establishing the Commission is to enhance integrity within the sport and physical recreation sector in order to protect and promote the safety and wellbeing of participants and the fairness of competition. The Commission's objective is to achieve this purpose by:
 - 10.1 preventing and addressing threats to integrity in sport and physical recreation; and
 - 10.2 promoting participants' trust and confidence in integrity within the sport and physical recreation sector.
- 11 The meaning of "participant" is set out in clause 4 of the Bill. As well as people who take part directly in sport or physical recreation (e.g. an athlete), it also covers roles such as coaches, administrators, officials and volunteers. I note that a person providing support services would also include a parent.
- 12 Clause 13 sets out a range of functions for the Commission relevant to this objective, including providing advice, support and guidance, investigating matters relating to integrity, providing culturally appropriate dispute resolution, and working with domestic and international partners.

Drug Free Sport New Zealand disestablished

- 13 The Bill will disestablish Drug Free Sport New Zealand (DFSNZ). Employees of DFSNZ will become employees of the Commission.
- 14 While DFSNZ will be disestablished, it is essential to preserve its existing functions and powers to ensure we continue to adhere to the International Convention against Doping in Sport (the Convention). The Convention provides the means for States to commit to the implementation of the World Anti-Doping Code.

- 15 The Bill therefore carries over the functions and powers of DFSNZ to the Commission. These include issuing, implementing, and reviewing the Sports Anti-Doping Rules, which give effect to the World Anti-Doping Code.

Issuing and implementing integrity codes for sport and physical recreation

- 16 Alongside the Anti-Doping Rules, one of the Commission's core functions is to issue integrity codes relating to sport and physical recreation. Integrity codes will be deemed to be secondary legislation. Clause 19 of the Bill provides that an integrity code may, among other matters:

- 16.1 set out minimum standards of conduct or procedural requirements for the purpose of preventing threats to integrity;
- 16.2 prescribe policies and procedures that an organisation that adopts the code must have for responding to concerns about integrity;
- 16.3 require organisations and other persons bound by the code to provide the Commission with information that is reasonably necessary for the purposes of an investigation;
- 16.4 require an organisation that adopts the code to report issues of serious concern to the Commission; and
- 16.5 contain any other matters necessary or desirable to promote integrity in sport or physical recreation (other than anti-doping).

- 17 The Bill does not require adoption of integrity codes by any organisation or individual. The decision to adopt integrity codes will be made by sport and physical recreation organisations. I expect that adoption of integrity codes will be encouraged through non-legislative mechanisms. For example, incentives used in other jurisdictions have included making adoption of integrity standards a prerequisite for government funding or recognition. It is possible that other incentives for organisations to adopt integrity codes will emerge over time (e.g. changes to insurance liability).

- 18 While integrity codes are adopted on an 'opt in' basis, once they have been adopted an integrity code will bind:

- 18.1 the organisation adopting it;
- 18.2 participants and other members of the organisation; and
- 18.3 participants who otherwise agree to the application of the code.

- 19 Clause 20 requires that the Commission consult with participants, sport and physical recreation organisations, Māori and other populations (e.g. Pacific peoples and rainbow communities) on integrity codes before they are issued.

Additional policy matters have been resolved since Cabinet policy approvals

- 20 Cabinet agreed in-principle to the Commission having the following powers in relation to investigations into alleged breaches of statutory codes and rules:
- 20.1 receive information from other relevant bodies and, when reasonably necessary, compel individuals and organisations to give evidence and provide information relevant to an investigation;
 - 20.2 refer complaints and/or disclose information to another agency with the jurisdiction to appropriately respond; and
 - 20.3 as a last resort, apply to the Sports Tribunal seeking an order that an organisation who has not adopted an integrity code address systemic/organisational failings by meeting equivalent standards.
- 21 Cabinet authorised the Minister for Sport and Recreation and Minister of Justice, in consultation with other relevant Ministers, to make decisions about these powers prior to consideration of the Bill by the Cabinet Legislation Committee. The Integrity Transition Committee provided further advice on these powers in December 2022. In summary, joint Ministers agreed that:
- 21.1 the Commission will, in response to complaints or on its own initiative, have the ability to investigate:
 - 21.1.1 breaches of integrity codes (where they have been adopted);
 - 21.1.2 threats to integrity where the Commission considers an investigation is in the public interest (regardless of whether integrity codes or the Sports Anti-Doping Rules have been adopted);
 - 21.2 the Commission will have powers to require information:
 - 21.2.1 under an integrity code and the Sports Anti-Doping Rules in relation to people who are bound by those instruments; and
 - 21.2.2 in the primary legislation from specified persons (e.g. national sport organisations and their affiliates) under a “reasonable grounds to believe” test;
 - 21.3 if a person fails to comply with a requirement to provide information, it may be treated as a breach of an integrity code or, in the case of a request to a specified person, the Commission may seek an order from the District Court requiring that the person provide the information;
 - 21.4 a person who provides information to the Commission has the same immunities and privileges as witnesses have in a court of law, and has immunity from any criminal, civil or disciplinary proceeding for providing that information;

- 21.5 equivalent protections to those in the Protected Disclosures (Protection of Whistleblowers) Act 2022 will apply to participants who cooperate with the Commission investigations to prevent retaliation or less favourable treatment of those participants;
- 21.6 the Commission will be subject to an obligation of confidentiality in respect of information it receives or requires as part of an investigation, but that it may authorise disclosure of information for specific purposes related to its functions;
- 21.7 the Commission will be able to refer a matter to another body if it considers that the matter relates to something that is more properly within the scope of that office's function; and
- 21.8 the Commission's functions and powers should be able to be exercised outside of New Zealand in certain circumstances (e.g. where permitted under an international agreement or an integrity code).
- 22 The Bill gives effect to these policy decisions. I have also highlighted some related decisions in the relevant sections below.
- 23 Ministers agreed not to proceed with the 'last resort' power to apply to the Sports Tribunal (see paragraph 20.3 above). Further analysis of that option indicated that it would likely be inconsistent with the role of the Sports Tribunal, which generally hears cases where the parties have consented to appear before it, and would create uncertainty about whether organisations were subject to integrity codes.

Additional duties and requirements in relation to the Commission's functions

- 24 The Bill sets out additional requirements relating to how the Commission performs its functions and powers. Clause 14, for example, provides that the Commission must establish procedures which, among other matters:
- 24.1 reflect the needs of participants based on culture, language, age, disability, gender identity and expression, and sexual orientation;
- 24.2 protect participants' human rights, including their right to privacy; and
- 24.3 promote the best interests of children and young people.
- 25 Clause 15 requires that the Commission maintain the capability and capacity to carry out its functions in a manner that is responsive to tikanga Māori, the rights and interests of Māori, and te Tiriti o Waitangi / the Treaty of Waitangi.

Matters which may require further consideration by select committee

- 26 There remain some issues which are likely to require further analysis and refinement at select committee.
- 27 For example, the meaning of "threats to integrity" is set out in clause 5 and is intended, in tandem with the Bill's purpose, to reflect the definition of integrity

adopted by Cabinet. This definition is critical to understanding the scope of the Commission's purpose and functions and is likely to attract scrutiny by the sector and other relevant stakeholders.

- 28 Similarly, clause 41 of the Bill provides for the establishment of a disciplinary panel, and clause 19 provides that the panel's composition and procedure may be set out in an integrity code. The Legislation Design and Advisory Committee highlighted that it is particularly important that the powers of disciplinary panels are transparent in the legislation. As such, clause 42 sets out that a disciplinary panel may request further information from relevant persons and interview any of the parties.
- 29 These clauses reflect the position that a disciplinary panel would "step into the shoes" of an organisation's disciplinary role where that organisation lacks the capability or capacity to resolve the matter. There are several ways in which that position could be implemented, which is likely to require further work ahead of the development of integrity codes. I therefore expect these provisions may also attract particular scrutiny at select committee.
- 30 As noted above, the Bill also provides protections for complainants which are modelled off the Protected Disclosures (Protection of Whistleblowers) Act 2022. Two aspects of these protections are particularly likely to require further consideration, namely whether:
- 30.1 the confidentiality provisions (discussed below at paragraphs 50 – 51) strike the appropriate balance between protecting complainants' privacy and ensuring the Commission is subject to legislation governing the disclosure of official or personal information; and
 - 30.2 less favourable treatment of an employee ought to explicitly be considered a personal grievance for the purposes of the Employment Relations Act 2000.
- 31 In my view, the matters above will all benefit from public scrutiny and select committee consideration. As such, I believe the Bill should be introduced as drafted and amendments considered at the appropriate time.

Impact analysis

- 32 Regulatory impact statements were prepared in accordance with the necessary requirements and were submitted to Cabinet when seeking in-principle approvals in June 2022 [CAB-22-MIN-0210] and final policy approvals in October 2022 [SWC-22-MIN-0166].

Compliance

- 33 I consider the Bill complies with:
- 33.1 the principles of te Tiriti o Waitangi / the Treaty of Waitangi;
 - 33.2 advice from the Treaty Provisions Officials Group (TPOG) on any Treaty of Waitangi provisions;

- 33.3 the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 (the Bill of Rights Act) and the Human Rights Act 1993;
- 33.4 the disclosure statement requirements (a disclosure statement has been prepared and is attached to the paper);
- 33.5 the principles and guidelines set out in the Privacy Act 2020;
- 33.6 relevant international standards and obligations – in particular, the International Convention against Doping in Sport, which helps to ensure the effectiveness of the World Anti-Doping Code;
- 33.7 the [Legislation Guidelines](#) (2021 edition), which are maintained by the Legislation Design and Advisory Committee.

The Bill of Rights Act

- 34 The information-gathering powers in the Bill engage section 14 (freedom of expression) and section 21 (unreasonable search and seizure) of the Bill of Rights Act. In my view, these limitations can be demonstrably justified under section 5 of the Bill of Rights Act.
- 35 The underlying policy objective of promoting and protecting the safety and wellbeing of participants constitutes a sufficiently important objective to justify some limitations on these rights. The powers are rationally connected to that objective, in that they will enable the effective conduct of investigations into suspected or alleged integrity issues. The powers are also designed to limit rights no more than reasonably necessary to achieve the objective and are proportionate to the objective.

Te Tiriti o Waitangi / the Treaty of Waitangi and relevant international standards

- 36 The Human Rights Commission raised concerns that the requirement for a minimum of two board members (from a total of seven to nine members) to have experience and expertise in relation to tikanga Māori and te ao Māori would fall short of the Crown's obligations under te Tiriti o Waitangi, the UN Declaration on the Rights of Indigenous Peoples and other human rights conventions. In its view, the proposed arrangement is inequitable, and that partnership would be better reflected by equal kāwanatanga and tino rangatiratanga representation on the board.
- 37 I appreciate the Human Rights Commission's concern. However, I consider that the proposed composition of the board is compatible with the Crown's obligations under te Tiriti o Waitangi and relevant international standards.
- 38 The Commission will operate within the kāwanatanga sphere and is not intended to abrogate tino rangatiratanga in ngā taonga tākaro – the wide variety of sports, games and activities developed in te ao Māori. Indeed, the requirement in clause 11 is intended to ensure a baseline level of Māori representation on the board so that it is able to understand and respond to these interests. The importance of that is reinforced throughout other provisions in the Bill, including the requirement for the Commission to

maintain the capability and capacity to carry out its functions in a manner which is responsive to tikanga Māori, te ao Māori, and te Tiriti o Waitangi.

- 39 Officials also sought advice from TPOG in relation to the relevant provisions of the Bill. TPOG's advice led to several amendments to the Bill to clarify the intent and effect of provisions referencing te Tiriti o Waitangi.

Consultation

- 40 Following Cabinet decisions in October 2022, the Integrity Transition Committee consulted on the design of the Commission's investigatory scope and powers with DFSNZ, the Ministry of Justice, the Office of the Privacy Commissioner, New Zealand Police, the Serious Fraud Office, and the Legislation Design and Advisory Committee. Feedback from those bodies informed the shape of the advice to Ministers in December 2022.
- 41 The following departments and entities were consulted on a draft of the Bill and of this paper: the Department of Internal Affairs; Department of Prime Minister and Cabinet; Oranga Tamariki; Office for Disability Issues at Whaikaha – the Ministry of Disabled People; Ministry of Business, Innovation, and Employment; Manatū Taonga – Ministry for Culture and Heritage; Ministry of Foreign Affairs and Trade; Ministry of Health; Ministry of Justice; Ministry for Primary Industries; Ministry for Pacific Peoples; Manatū Wāhine – Ministry for Women; New Zealand Police; the Public Service Commission; Te Arawhiti; Ministry of Social Development; Crown Law Office; New Zealand Customs Service; the Treasury; DFSNZ; Serious Fraud Office; Sports Tribunal; the Office of the Ombudsman; the Human Rights Commission.
- 42 Te Puni Kōkiri and the Office of the Privacy Commissioner were informed of this paper. The Office of the Privacy Commissioner advised that, due to current resourcing limitations, it was unable to review the draft Bill. The Office noted that it will submit on the Bill at select committee if required.

Binding on the Crown

- 43 Cabinet has not previously agreed to the Crown being bound by the Bill. I propose that the Bill will bind the Crown. No Government operations or activities would be hindered by making the Crown subject to the Act, and the financial costs of making the Crown subject to the Act are not unreasonable.

Creating new agencies or amending law relating to existing agencies

- 44 The Bill establishes a new independent Crown entity. The Crown Entities Act 2004 will apply, with specific additional requirements provided for in relation to governance and accountability.
- 45 The Commission will be governed by a board of between 7 and 9 members. The Bill requires that those members must collectively have knowledge of, and experience and expertise in relation to law, sports medicine, sport and active recreation sector participation and administration (including participant

associations), human rights, in particular the rights of children and young people, and te Tiriti o Waitangi / the Treaty of Waitangi.

- 46 A minimum of two members must have experience and expertise in relation to tikanga Māori and te ao Māori. Board members and staff of Sport New Zealand or one of its subsidiaries (such as its current subsidiary High Performance Sport New Zealand) cannot be members of the Commission.
- 47 In addition to the statutory criteria in the Bill, the Crown Entities Act 2004 requires the Minister to take into account the desirability of promoting diversity in appointments to Crown entities. I have a strong expectation that the board will be gender-diverse, including wāhine Māori representation, and that disabled people will be represented.
- 48 Joint Ministers agreed that, in addition to the accountability arrangements under the Crown Entities Act, the Bill should require that the Commission specifically report on the use of its information-gathering powers. The intention is to ensure that the use of these powers is open, transparent and subject to oversight by appropriate bodies (e.g. the Privacy Commissioner).
- 49 As noted above, the Bill will establish protections for persons who raise concerns with the Commission or who cooperate with an investigation. These protections mirror those in the Protected Disclosures (Protection of Whistleblowers) Act 2022. If an organisation or individual retaliates against or treats a person less favourably for having cooperated with the Commission, the Bill provides several pathways to enforce these protections, namely:
- 49.1 under an integrity code (e.g. as a breach which may be sanctioned by an organisation or the Commission's disciplinary panel);
 - 49.2 an application to the Sports Tribunal if the less favourable treatment pertains to selection; or
 - 49.3 under the victimisation provisions of the Human Rights Act 1993.
- 50 The Ombudsmen Act 1975 and the Official Information Act 1982 will apply to the Commission. As noted above, however, clause 38 of the Bill will impose an obligation of confidentiality on the Commission in respect of information obtained during an investigation which might identify the complainant or the person who provided the information.
- 51 I consider it is desirable to include this obligation to provide participants and other parties an assurance that the information they provide will be treated with respect and care. Clause 38 is drafted to strike a balance between this imperative and the need to ensure that the Commission remains subject to the broader legislative frameworks governing the handling of official and personal information. As such, the Bill will allow the Commission to disclose information where required under any other legislation, including the Official Information Act 1982 and Privacy Act 2020.

Allocation of decision-making powers

- 52 The Commission's board will be appointed by the Governor-General on the advice of the Minister for Sport and Recreation, as is standard for independent Crown entities.
- 53 The Commission will be responsible for decisions in relation to its functions.
- 54 The Bill allows the Commission to establish a disciplinary panel, which must function independently of the investigative functions of the Commission. The disciplinary panel would have jurisdiction to consider whether a breach of an integrity code has been established, and the application of appropriate, non-criminal sanctions on participants bound by an integrity code where a breach of a code has been established.
- 55 The Bill expands the jurisdiction of the Sports Tribunal to hear appeals in relation to matters concerning the application of an integrity code, including appeals from decisions by any disciplinary panel established by the Commission.

Associated regulations

- 56 The Bill does not contain regulation-making powers.

Other instruments

- 57 The Sports Anti-Doping Rules and integrity codes are deemed to be legislative instruments.
- 58 The Sports Anti-Doping Rules concerns relatively detailed, technical matters which are required to implement the World Anti-Doping Code. Integrity codes will not currently be implementing international agreements, though this may change in future (for example, if Aotearoa New Zealand ratifies the Council of Europe Convention on the Manipulation of Sports Competitions). Regardless, integrity codes will similarly be technical and will need to be responsive to changes in the integrity landscape.
- 59 I also consider that deemed legislative instruments are appropriate, as both the Sports Anti-Doping Rules and integrity codes are "opt-in" rather than of general, automatic application to a wide cross-section of the public. The Bill also does not authorise the making of any criminal offences and penalties under either the Sports Anti-Doping Rules or integrity codes. Lastly, the Commission will be a specialist body with strong relationships into the sector and should be well placed to design, issue and implement these instruments (as Drug Free Sport NZ is currently).
- 60 The explanatory note to the Bill sets out the reasons for deemed regulations.

Definition of Minister/department

- 61 The Bill defines Minister as the Minister of the Crown who, under the authority of a warrant or with the authority of the Prime Minister, is responsible for the administration of the Act.
- 62 The Bill contains a definition of Sport New Zealand, by reference to section 7(1) of the Sport and Recreation New Zealand Act 2002. The Act will be administered by Sport New Zealand.

Commencement of legislation

- 63 The Bill provides that the Act will come into force on a date appointed by the Governor-General by Order in Council. Any provision that is not brought into force by Order in Council will come into force on 1 July 2024.
- 64 The intention behind this approach to commencement is to allow sufficient time for establishment arrangements, including the appointment of board members to the Commission. I am conscious also that the General Election and the pre-election period may impact the timing of those appointments.
- 65 However, if those arrangements are in place earlier than 1 July 2024, I do not see any reason the Commission should not be able to commence. The ability to bring the legislation into force earlier by Order in Council provides this flexibility. Similarly, if sufficient progress on establishment arrangements has been made ahead of the Committee of the whole House stage, a revised date could be recommended by the select committee or considered at the Committee of the whole House.

Parliamentary stages

- 66 I have sought a category 3 priority (to be passed if possible during the 53rd Parliament) for the Bill. To achieve this prioritisation, the Bill should be introduced into the House on the first available date after Cabinet approval.
- 67 I propose that the Bill be referred to the Social Services and Community Committee. To support the Commission becoming operational in early 2024, I propose that the Bill be enacted as soon as possible after it is reported back.

Proactive Release

- 68 I intend to proactively release this paper and related Cabinet decisions, subject to consideration of any deletions that would be justified if the information had been requested under the Official Information Act 1982.

Recommendations

- 69 I recommend that the Cabinet Business Committee:
- 1 note that the Minister for Sport and Recreation has sought a category 3 priority on the Legislation Programme (to be passed if possible during the 53rd Parliament) for the Integrity Sport and Recreation Bill;

- 2 note that the Integrity Sport and Recreation Bill is an omnibus bill that will:
 - 2.1 establish a new independent Crown entity, the Integrity Sport and Recreation Commission, to promote integrity in sport and physical recreation;
 - 2.2 disestablish Drug Free Sport New Zealand and transfer its functions and powers to the Integrity Sport and Recreation Commission, including issuing and implementing the Sports Anti-Doping Rules;
 - 2.3 enable the Integrity Sport and Recreation Commission to issue integrity codes for sport and physical recreation; and
 - 2.4 provide for the Integrity Sport and Recreation Commission to monitor and investigate matters relating to integrity in sport and physical recreation;
- 3 approve the Integrity Sport and Recreation Bill for introduction, subject to the final approval of the government caucus and sufficient support in the House of Representatives;
- 4 agree that the Integrity Sport and Recreation Bill will bind the Crown;
- 5 note that additional policy matters relating to monitoring and investigating breaches of an integrity code or threats to integrity have been resolved by the Minister for Sport and Recreation and Minister of Justice since Cabinet policy approvals;
- 6 agree to confirm decisions made by the Minister for Sport and Recreation and Minister of Justice, namely that:
 - 6.1 the Integrity Sport and Recreation Commission will, in response to complaints or on its own initiative, have the ability to investigate:
 - 6.1.1 breaches of integrity codes (where they have been adopted);
 - 6.1.2 threats to integrity where the Integrity Sport and Recreation Commission considers an investigation is in the public interest (regardless of whether integrity codes or the Sports Anti-Doping Rules have been adopted);
 - 6.2 the Integrity Sport and Recreation Commission will have powers to require information:
 - 6.2.1 under an integrity code and the Sports Anti-Doping Rules in relation to people who are bound by those instruments; and
 - 6.2.2 in the Bill from specified persons (e.g. national sport organisations and their affiliates, a regional or local sports organisation) under a “reasonable grounds to believe” test;

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- 6.3 if a person fails to comply with a requirement to provide information, it may be treated as a breach of an integrity code or, in the case of a request to a specified person, the Integrity Sport and Recreation Commission may seek an order from the District Court requiring that the person provide the information;
- 6.4 a person who provides information to the Integrity Sport and Recreation Commission has the same immunities and privileges as witnesses have in a court of law, and has immunity from any criminal, civil or disciplinary proceeding for providing that information;
- 6.5 equivalent protections to those in the Protected Disclosures (Protection of Whistleblowers) Act 2022 will apply to participants who cooperate with the Integrity Sport and Recreation Commission's investigations to prevent retaliation or less favourable treatment of those participants;
- 6.6 the Integrity Sport and Recreation Commission will be subject to an obligation of confidentiality in respect of information it receives or requires as part of an investigation, but that it may authorise disclosure of information for specific purposes related to its functions;
- 6.7 the Integrity Sport and Recreation Commission will be able to refer a matter to another body if it considers that the matter relates to something that is more properly within the scope of that office's function; and
- 6.8 the Integrity Sport and Recreation Commission's functions and powers should be able to be exercised outside of New Zealand in certain circumstances.
- 7 agree that the Bill will not include the ability to apply to the Sports Tribunal seeking an order that an organisation who has not adopted an integrity code address systemic or organisational failings;
- 8 agree that the Bill be introduced on the first available date after Cabinet approval;
- 9 agree that the Government propose that the Bill be:
- 9.1 referred to the Social Services and Community Committee for consideration; and
- 9.2 enacted as soon as possible after it is reported back.

Authorised for lodgement

Hon Grant Robertson

Minister for Sport and Recreation

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Cabinet

Minute of Decision

This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.

Report of the Cabinet Business Committee: Period Ended 24 March 2023

On 27 March 2023, Cabinet made the following decisions on the work of the Cabinet Business Committee for the period ended 24 March 2023:

CBC-23-MIN-0006	Integrity Sport and Recreation Bill: Approval for Introduction Portfolio: Sport and Recreation	CONFIRMED
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OUT OF SCOPE		

Rachel Hayward
Secretary of the Cabinet

RELEASED BY SPORT NZ UNDER OUR COMMITMENT TO OPEN GOVERNMENT



Cabinet Business Committee

Minute of Decision

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Integrity Sport and Recreation Bill: Approval for Introduction

Portfolio **Sport and Recreation**

On 20 March 2023, the Cabinet Business Committee:

- 1 **noted** that the Minister for Sport and Recreation has sought a category three priority on the Legislation Programme (to be passed if possible before the 2023 general election) for the Integrity Sport and Recreation Bill (the Bill);
- 2 **noted** that the Bill is an omnibus bill that will:
 - 2.1 establish a new independent Crown entity, the Integrity Sport and Recreation Commission (the Commission), to promote integrity in sport and physical recreation;
 - 2.2 disestablish Drug Free Sport New Zealand and transfer its functions and powers to the Commission, including issuing and implementing the Sports Anti-Doping Rules;
 - 2.3 enable the Commission to issue integrity codes for sport and physical recreation; and
 - 2.4 provide for the Commission to monitor and investigate matters relating to integrity in sport and physical recreation;
- 3 **approved** the Bill [PCO 24872/15.0] for introduction, subject to the final approval of the government caucus and sufficient support in the House of Representatives;
- 4 **agreed** that the Integrity Sport and Recreation Bill will bind the Crown;
- 5 **noted** that additional policy matters relating to monitoring and investigating breaches of an integrity code or threats to integrity have been resolved by the Minister for Sport and Recreation and Minister of Justice since Cabinet policy approvals;
- 6 **agreed** to confirm decisions made by the Minister for Sport and Recreation and Minister of Justice, namely that:
 - 6.1 the Commission will, in response to complaints or on its own initiative, have the ability to investigate:
 - 6.1.1 breaches of integrity codes (where they have been adopted);
 - 6.1.2 threats to integrity where the Integrity Sport and Recreation Commission considers an investigation is in the public interest (regardless of whether integrity codes or the Sports Anti-Doping Rules have been adopted);

- 6.2 the Commission will have powers to require information:
- 6.2.1 under an integrity code and the Sports Anti-Doping Rules in relation to people who are bound by those instruments; and
 - 6.2.2 in the Bill from specified persons (e.g. national sport organisations and their affiliates, a regional or local sports organisation) under a “reasonable grounds to believe” test;
- 6.3 if a person fails to comply with a requirement to provide information, it may be treated as a breach of an integrity code or, in the case of a request to a specified person, the Commission may seek an order from the District Court requiring that the person provide the information;
- 6.4 a person who provides information to the Commission has the same immunities and privileges as witnesses have in a court of law, and has immunity from any criminal, civil or disciplinary proceeding for providing that information;
- 6.5 equivalent protections to those in the Protected Disclosures (Protection of Whistleblowers) Act 2022 will apply to participants who cooperate with the Commission’s investigations to prevent retaliation or less favourable treatment of those participants;
- 6.6 the Commission will be subject to an obligation of confidentiality in respect of information it receives or requires as part of an investigation, but that it may authorise disclosure of information for specific purposes related to its functions;
- 6.7 the Commission will be able to refer a matter to another body if it considers that the matter relates to something that is more properly within the scope of that office’s function;
- 6.8 the Commission’s functions and powers should be able to be exercised outside of New Zealand in certain circumstances;
- 7 **agreed** that the Bill will not include the ability to apply to the Sports Tribunal seeking an order that an organisation who has not adopted an integrity code address systemic or organisational failings;
- 8 **agreed** that the Bill be introduced on the first available date after Cabinet approval;
- 9 **agreed** that the Government propose that the Bill be:
- 9.1 referred to the Social Services and Community Committee for consideration;
 - 9.2 enacted as soon as possible after it is reported back.

Sam Moffett
Committee Secretary

Present:

Hon Chris Hipkins (Chair)
Hon Kelvin Davis
Hon Grant Robertson
Hon Dr Megan Woods
Hon Michael Wood
Hon Dr Ayesha Verrall
Hon Willie Jackson
Hon Kiri Allan
Hon Stuart Nash
Hon Andrew Little
Hon David Parker
Hon Nanaia Mahuta
Hon Kieran McAnulty

Officials present from:

Office of the Prime Minister
Officials Committee for CBC

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