

Proactive Release: Integrity Transition Committee – Handover Report



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SPORT AND
RECREATION

INTEGRITY
TRANSITION PROGRAMME

TE TĀKARO NGĀKAU PONO

INTEGRITY TRANSITION COMMITTEE

HANDOVER REPORT

MAY 2023



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Executive summary

This report provides an overview of the work of the Integrity Transition Committee (the ITC) from June 2022 to May 2023. The report also contains recommendations about the next stages of the work to establish the Integrity Sport and Recreation Commission (the Commission).

The ITC has overseen a significant amount of work in the last 10 months, including:

- considering and resolving major policy issues, including the governance arrangements for the Commission and the regulatory settings for a Code of Integrity for Sport and Recreation (the Code);
- overseeing the work to support Cabinet policy approvals in October 2022, further detailed advice to Ministers in December 2022, and the introduction of the Integrity Sport and Recreation Bill;
- developing a clearer understanding of the te Tiriti o Waitangi implications in relation to sport and recreation;
- advising on the next phase of the governance for the establishment programme, in consultation with Manatū Taonga – the Ministry for Culture and Heritage;
- forming a Māori Advisory Group and undertaking targeted engagement with Māori in early 2023;
- undertaking research and early engagement with the sport and recreation sector;
- beginning work on change management and organisational design for the Commission;
- early design work and engagement in relation to the Code; and
- initial phases of work to develop a national approach to competition manipulation.

The ITC has been supported by the Integrity Transition Programme, a dedicated team of staff providing advice on the design of, and the transition to, the Commission. The ITC and Integrity Transition Programme team have also received support from Sport NZ (in particular its policy team) and external contractors. Further detail on the Integrity Transition Programme team structure and staff is included below at page 15.

The Integrity Sport and Recreation Bill (the Bill) is a crucial piece of the puzzle. The Bill is currently before the Social Services and Community Select Committee and is intended to pass before the 2023 General Election. Sport New Zealand (Sport NZ) is principally responsible for advising on the remaining stages of the legislation, with support from the Integrity Transition Programme team.

Having delivered its report, the ITC recommended that the Minister for Sport and Recreation (the Minister) create a smaller group to oversee the remaining stages of work. The Minister requested that Manatū Taonga – Ministry for Culture and Heritage (Manatū Taonga) support the creation of a ministerial advisory committee called the Integrity in Sport and Recreation Establishment Board (the Establishment Board).¹ In early April 2023, Cabinet confirmed the

¹ [Establishing a ministerial advisory committee - Te Kawa Mataaho Public Service Commission.](#)

set-up of the Establishment Board and the appointment of four members effective from 1 May 2023.²

There remains a lot of work to do to ensure that the Commission can be established in 2024. This report outlines a number of priority areas for the Establishment Board to consider, including specific implementation risks or opportunities. The Integrity Transition Programme team will support the Establishment Board through this work.

Recommendations

The Integrity Transition Committee recommends that the Establishment Board consider:

1. Prioritising further work on the development of a disciplinary panel model, specifically the areas outlined in this report.
2. Engaging with the Sports Tribunal to discuss the appeals process from a decision of a disciplinary panel.
3. Progressing the organisational design of the Commission in consultation with the Public Service Commission, Manatū Taonga – Ministry of Culture and Heritage, and Sport NZ.
4. Meeting with Drug Free Sport New Zealand to discuss change management, including in relation to staffing and a 'stocktake' of organisational strategies and operational policies.
5. Developing a view on the appropriate boundaries for the work of the Commission and Sport NZ, given they will be completely separate entities and it will be vital to maintain the independence of the Commission.
6. Meeting with the Māori Advisory Group ā-tinana at the earliest opportunity for whakawhanaungatanga and to discuss and agree a model for working together.
7. Addressing identified gaps in representation on the Māori Advisory Group including for tāngata whaikaha (disabled people) and Te Waipounamu.
8. Working with the Integrity Transition Programme to ensure the inclusion of Pacific voices throughout the Board's work and ensure the Commission is well positioned to continue these relationships.
9. Adopt an engagement plan for the development of the Code.
10. Making options to encourage adoption of the Code a focus of further conversations with sector organisations, participants, and participant representative groups (e.g. players associations).
11. Ensuring that all implementation risks and opportunities for the Commission are identified, including in relation to the Code, the commencement of the Incorporated Societies Act 2022 and the Commission's role in school sport.

² On 3 April 2023 Cabinet (APH-23 -MIN-0028 refers) approved the establishment of the ministerial advisory committee to be known as the Integrity in Sport and Recreation Establishment Board [CAB -23-MIN-0105].

Background

In recent years, a number of reviews have identified significant harm being experienced by athletes and other participants in sport and active recreation. Concerns about participant welfare, bullying, abuse and inappropriate behaviour and culture have come to public attention, including in football, gymnastics, cycling, hockey, and canoe racing.

In 2020, the Play, Active Recreation and Sport Working Group (the Integrity Working Group) was established to make recommendations to the Minister for Sport and Recreation (the Minister) and the Sport NZ Board on the most appropriate institutional arrangement(s) to manage all the various integrity elements across the sport and recreation system.

Following consultation with experts in the sector, the Integrity Working Group recommended the establishment of a new standalone organisation, incorporating Drug Free Sport NZ and the current Sport NZ integrity functions, and dedicated to all aspects of integrity.³ Cabinet agreed in principle to the establishment of a new entity in June 2022 [CAB-22-MIN-0210 refers].

In July 2022, the Sport NZ board appointed the ITC to oversee work on the scope and scale of a new entity.⁴ Our terms of reference are included as **Appendix One**. We have also overseen the development of a broad work programme, which is summarised in **Appendix Two**.

The key deliverable set out in the terms of reference is that the ITC deliver a report setting out its recommendations and rationale to the Minister for Sport and Recreation identifying:

- the optimum structural and legislative arrangements, including fully scoped and costed functions, of a new integrity entity;
- the associated plans and timeframes for establishing a new integrity entity;
- the purpose and design of a NCSI (National Code of Sport Integrity), including the new entity's role in relation to enforcing the NCSI and potential management of an accreditation system;
- the requirements of New Zealand becoming a signatory to the Macolin Convention⁵ and implications for the new integrity entity; and
- such other matters in relation to its work programme as the Committee considers relevant.

We delivered our report, in the form of a further draft Cabinet paper, to the Minister in September 2022. Cabinet subsequently confirmed its decision to establish the new entity, agreed to its structure, functions and powers, and invited the Minister to issue drafting instructions to the Parliamentary Counsel Office [SWC-22-MIN-0166 and CAB-22-MIN-0419].

³ Report of the Play, Active Recreation and Sport Working Group, pages 9 – 10.

⁴ Members of the Integrity Transition Committee were Doug Martin (Chair - ITC); Don Mackinnon (Deputy Chair - ITC, Chair - Integrity Working Group); Tim Castle (Chair - DFSNZ); Traci Houpapa (Māori representative); Alexis Pritchard (athlete representative); Sarah Murray (recreation representative); Dean Murphy (NSO representative, Chief Executive NZ Golf); Vicky Robertson (former Secretary for the Environment); and Julie Morrison (ex officio, Sport New Zealand).

⁵ Council of Europe Convention on the Manipulation of Sports Competitions. The Macolin Convention is the only specific international legal instrument related to competition manipulation.

The Integrity Sport and Recreation Bill (the Bill), which gives effect to Cabinet’s policy decisions, was introduced to Parliament on 28 March 2023. The Bill passed first reading on 4 April 2023 and was referred to the Social Services and Community Committee for consideration.

Designing the Commission’s form, functions and powers

Several key issues identified by the Integrity Working Group required further policy analysis to support our recommendations to the Minister.

We note with appreciation the hard work done by the Sport NZ Policy team, as well as consultants from Allen + Clark and MartinJenkins in the development of policy papers to the ITC, the draft Cabinet paper, and the Regulatory Impact Analysis.

Sport NZ Policy and the Integrity Transition Programme team also consulted with a broad cross-section of government departments, organisations in the wider public sector (e.g. Crown entities) and Officers of Parliament. A list of organisations we consulted with is included as **Appendix Three**.

Purpose and functions of the Commission

We gave a lot of consideration to the Commission’s purpose and functions. The Bill provides that the purpose of the Commission is to enhance integrity within sport and active recreation to protect and promote the safety and wellbeing of participants and the fairness of competition.



This purpose deliberately emphasises the safety and wellbeing of participants, rather than a more technical or functional description. The intent in doing so was to place participants at the centre of everything the Commission does.

Similarly, the Commission’s functions – which are set out in clause 13 of the Bill – are wide-ranging to ensure that the Commission can use a variety of methods to achieve its purpose.

We emphasise in particular the importance of providing advice, support and guidance to participants and the wider sector. It is important, in our view, that the Commission is not solely an enforcement-oriented body, but one that also helps to support people and to build organisational capability.

The Commission will also inherit from Drug Free Sport NZ the responsibility of:

- protecting athletes’ fundamental right to participate in doping-free sport and in this way promote health, fairness, and equality for athletes worldwide; and
- ensuring harmonised, co-ordinated, and effective anti-doping programmes at an international and national level with regard to detection, deterrence, and prevention of doping.

Drug Free Sport NZ has since 1994 carried out these duties efficiently and effectively. In line with Ministerial intention and undertakings made to Drug Free Sport NZ, we have strived to maintain its functions and powers through the Bill and believe we have done so.

Governance and organisational form

The ITC agreed reasonably early to recommend that the Commission should be an independent Crown entity under the Crown Entities Act 2004. This was a direct response to the IWG recommendation and the sector's desire for actual and perceived independence from Sport NZ. It was also consistent with the current status of Drug Free Sport NZ.

Having agreed that, our attention turned to the required skills, knowledge and experience on the Commission's board. We drew on the pre-existing requirements in relation to Drug Free Sport NZ (e.g. law, sports administration, and sports medicine). However, given the broader functions of the Commission and the explicit focus on participant wellbeing we considered it was essential to have a broader mix of skills on the board (e.g. human rights, Treaty of Waitangi/te Tiriti o Waitangi).

The range of skills inevitably required an expansion in the current board of Drug Free Sport NZ. We therefore recommended the Commission's board have 7 – 9 members.

Opt-in approach to integrity codes

Perhaps the single most important policy issue we considered was whether to recommend a mandatory or opt-in approach to the adoption of integrity codes.

Following our early discussions, the advice we received indicated that there were two main choices:

- providing in the Bill that certain organisations or classes of organisations would have to adopt the Code (i.e. mandatory); or
- no legal requirement to adopt the Code, but using a mixture of compliance levers and incentives to encourage organisations to opt-in.

Ultimately, we came to the view that an opt-in approach to the Code was preferable. We considered it was important that the Commission work collaboratively with the sector to achieve buy-in for the Code, and that there would be options available to incentivise compliance without requiring it. We also recognised that there is significant breadth in the sector, and that the recreation sector in particular is difficult to define for regulatory purposes. There is also a variety of capability across the sector which would have created practical difficulties for mandatory application of the Code.

The key, in our view, was ensuring that there are sufficient incentives for organisations to adopt the Code. Further discussion on incentives is set out in more detail below around our approach to preliminary work on developing the Code (see page 28).

We have also been conscious of trying to avoid/minimise perverse incentives against adoption. As such, the decision to recommend an opt-in approach also impacted our consideration of the powers which would be appropriate and necessary for the Commission.

Investigations and information-gathering powers

As envisaged by the IWG, we determined fairly early that the Commission would require the ability to investigate suspected breaches of the Code, including an ability to require information in certain circumstances.

However, we recognised that this was a complicated issue requiring detailed work. As such, our initial advice to the Minister on this point was reasonably high-level. Cabinet authorised the Minister and the Minister of Justice to make joint decisions on the design of the Commission's investigative powers.

We provided further advice to joint Ministers on the design of the Commission's investigative functions and powers in December 2022. The criteria for assessing the design of the powers included, among other matters, enabling the effective conduct of investigations, upholding people's fundamental human rights, maintaining Drug Free Sport NZ's powers, and avoiding perverse incentives not to adopt the Code.

With these factors in mind, we recommended that:

- the Commission will, in response to complaints or on its own initiative, have the ability to investigate:
 - breaches of integrity codes (where they have been adopted);
 - 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);
- the Commission will have powers to require information:
 - under an integrity code and the Sports Anti-Doping Rules in relation to people who are bound by those instruments; and
 - in the primary legislation from specified persons (e.g. national sport organisations and their affiliates) under a "reasonable grounds to believe" test;
- 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;
- 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;
- 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;
- 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;

- 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
- 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).

Ministers agreed to our advice and Cabinet confirmed those decisions when it approved the introduction of the Bill. We anticipate that the investigation and monitoring powers will be of particular interest to submitters and the Select Committee considering the Bill.

Given the importance of ensuring the powers are used lawfully, it will be essential for the Establishment Board to follow any developments in this regard. The Establishment Board may also wish to seek legal advice about the scope of the powers once the Bill is enacted, ahead of finalising operational policy on their potential use.

Last resort power to apply to the Sports Tribunal

We also considered whether the Commission should be able to take an organisation who had not adopted the Code to the Sports Tribunal seeking an order that they meet equivalent standards. The idea behind this option was to mitigate the risk that organisations did not adopt the Code and, in so doing, avoid scrutiny.

Cabinet agreed to explore this option further. However, after further analysis, we recommended against proceeding with the last resort power.

In our view, the power would have been inconsistent with the premise of the Sports Tribunal's jurisdiction, which operates on the basis of consent. By definition, this power would have applied to an organisation which did not accept the Tribunal's jurisdiction (at least in respect of the Code). We also noted that organisations will want to know whether they are/will be subject to regulation, and this option would have left that open-ended. We also considered, at this point, that the need for this step is not established particularly in light of the Commission's ability to undertake public interest investigations and report on the outcome, including requiring the provision of information from some organisations regardless of whether they have adopted the Code. As above, joint Ministers accepted this advice and the decision not to proceed with the last resort power was confirmed by Cabinet.

Disciplinary panels

The Integrity Working Group had recommended there be an ability for the new entity to establish a disciplinary panel in relation to breaches of the Code.

Cabinet agreed to the Commission having a disciplinary panel function. The decisions regarding the disciplinary panel were reasonably high-level, given the overall desire for flexibility and that much of the detail regarding the disciplinary panel could be left to integrity codes issued by the Commission.

The Bill accordingly provides a high-level framework for the operation of a disciplinary panel. However, throughout the drafting process Sport NZ and Integrity Transition Programme staff received a range of queries about how the disciplinary panel is intended to operate and about the level of detail.

As such, we considered and agreed upon a more detailed design of the disciplinary process to help guide drafting and serve as an early operational model.

We were all of the view that the disciplinary panel should operate independently of the Commission, namely by appointing an independent pool of people who can be called upon as needed. There are a variety of options for how members could be appointed. One idea we consider merits attention is the Commission creating an appointments committee/panel made up of the Commission and sector representatives. This group could meet from time-to-time to consider and confirm new appointments.

Importantly, we also agreed to an overarching disciplinary process model to recommend to the Establishment Board. This model is summarised in **Appendix Four**. The model attempts to balance the reality that sport and recreation organisations must be responsible day-to-day for managing and responding to concerns about integrity, but that the Commission will have also have a duty to ensure that human rights are upheld and therefore the Commission may:

- 'step in' to conduct investigations, and/or
- convene a disciplinary panel where the organisation lacks the capacity or capability to conduct a sufficiently independent and robust process.

Our proposed approach also reflects our view that the disciplinary panel's role is to receive evidence, test that evidence, and make a determination relating to a breach and sanction. The role of investigating a suspected breach falls to the Commission or the relevant organisation.

In the time available we have not resolved all the design considerations. We are also conscious that many of the issues are, ultimately, for the Commission to decide on.

We have identified a variety of areas we **recommend** the Establishment Board prioritise in the development of the disciplinary panel model:

- ensuring disciplinary processes are culturally appropriate;
- the appointment process for panel members;
- whether there should be a specific time-limit for triaging and/or investigating a complaint;
- ensuring the process is accessible, trauma-informed, and age appropriate;
- administrative support for disciplinary panels and where this will be resourced from;
- counselling and support for complainants throughout the whole process;
- publication of decisions, including when and how they are published; and
- whether there are any circumstances in which it would be appropriate for parties to meet the cost of the disciplinary panel.

In our view, it is also essential the Establishment Board and Commission take steps to mitigate the risk of organisations seeing the establishment of the disciplinary panel as an opportunity to outsource the management of integrity issues.

Appeals from a disciplinary panel decision

At our final meeting on 10 May 2023, we received further advice from the Integrity Transition Programme on appeals from a disciplinary panel decision. We requested this advice due to questions we had about whether grounds of appeal could, or should, be limited in relation to organisations and the Commission. We also had questions about complainants' role in the appeals process.

In terms of the grounds of appeal, the options we considered were whether to recommend:

- maintaining the current approach under the Bill, where no grounds of appeal are specified and allowing the Sports Tribunal to determine grounds of appeal;⁶ or
- setting out specific grounds of appeal in the legislation and/or the Code.

Our preferred approach is what is currently provided for in the Bill. We consider this option is the most flexible and would allow the Sports Tribunal to adapt its procedures and processes as the integrity system matures. It is also consistent with current legislation which vests the power to determine the Sports Tribunal's process with the Tribunal itself.⁷

We therefore **recommend** engaging with the Sports Tribunal to discuss the disciplinary process and how it might approach the question of appeals. While it will ultimately be a matter for the Tribunal to decide how it approaches this, early engagement would provide a useful opportunity to discuss the policy intent of the Bill and identify any implementation risks for the Commission in designing the disciplinary process more generally.

We note that, as it stands under the Bill, complainants would not have a right of appeal as they are not a "party" to the proceeding. We believe this is the correct policy position. However, we emphasise that the fact a complainant cannot directly appeal highlights the need for trauma-informed support throughout the entire process, from the information they receive when making a complaint right through to disciplinary proceedings.

Integrity Sport and Recreation Bill

Timeline for passing the Bill

The Bill was introduced into the House on 28 March 2023 and was referred to the Social Services and Community Select Committee. The Select Committee will deliberate on the Bill and report back to the House by 10 August 2023. The Minister has indicated his intention for the Bill to pass before the House rises on 31 August for the General Election. Timing is tight and any unexpected delays to the passage of the Bill will mean that it may not be passed until Parliament resumes after the General Election.

The proposed commencement date of the Bill is 1 July 2024. However, the legislation may come into force earlier on a date appointed by the Governor-General by Order in Council,

⁶ Section 39 of the Sports Anti-Doping Act already provides that the Sports Tribunal may determine its own practices and procedures for performing its functions – which will include appeals from a disciplinary panel.

⁷ Generally, legislation should rely on existing procedures unless there are compelling reasons to create new procedures. See LDAC Guidelines (2021), Chapter 28.

depending on progress made to establish the Commission and disestablish Drug Free Sport NZ. This would require a formal process, including Cabinet approvals.

Close cooperation with Sport NZ and Manatū Taonga on, and proactive communication with the Minister, about the progress of establishment will be needed to ensure alignment in relation to bringing the legislation into force.

Some areas of the Bill may require further work through the Parliamentary process

During development of the Bill, several areas have been identified that may require changes or refinement through the Parliamentary process, or that could be a focus of public submissions on the Bill. These areas include:

- the definition of 'threats to integrity';
- the role and powers of a disciplinary panel established by the Commission, including in what circumstances appeals can be made to the Sports Tribunal (as discussed above); and
- protections for participants and others providing information to the Commission.

We expect that the Select Committee and submitters will also be interested in the integrity framework introduced by the Bill, including whether the Bill strikes the right balance between what is provided for in the primary legislation versus secondary legislation, and the investigative powers the Commission will have.

The Establishment Board's role is to align establishment activity with the legislative intent

One of the Establishment Board's responsibilities is ensuring establishment activity remains aligned to the intent of the legislation, but our understanding is that the Establishment Board will not have a formal role in advising on the legislation.

As noted in the Establishment Board's terms of reference, Sport NZ is responsible for managing the passing of the Bill. However, the Integrity Transition Programme will continue to provide support to Sport NZ in relation to the Bill's development. This will include one of the Integrity Transition Programme team acting as an advisor to the Select Committee alongside Sport NZ officials.

While the Bill is before Select Committee, there are limitations on what officials will be able to share with the Establishment Board, as Select Committee's processes and deliberations are strictly confidential. The Select Committee may consent to further information being shared, which will be confirmed with the Establishment Board as soon as possible.

At this stage, if there are matters the Establishment Board wishes to raise in relation to the Bill, we suggest asking the Integrity Transition Programme to raise it with Sport NZ in the first instance. The Minister may also request advice from the Establishment Board in relation to the legislation, and it would be open to the Establishment Board to request an opportunity to do so at the appropriate stage.

Organisational design and change management

Organisational design of the Commission

The Integrity Transition Programme team has undertaken some high-level organisational design to support developing a budget. The Establishment Board may wish to progress design

of the structure and operations of the Commission ahead of enactment of the Bill, though our understanding is that final decisions will not be made until the appointment of the Commission's Chair, Board and Chief Executive.

Overall, we **recommend** progressing the organisational design of the Commission in consultation with the Public Service Commission, Manatū Taonga, and Sport NZ.

Manatū Taonga will be responsible for managing the process of appointing the Chair and other members to the Board of the Commission once the legislation is enacted. Appointments will follow the standard Cabinet process in relation to an independent Crown entity, and remuneration will be determined by the Remuneration Authority. We understand that Manatū Taonga expect to start this work ahead of the legislation passing (see timeline above at page 10). An induction process for Crown entity appointees will also be undertaken by Manatū Taonga.

Once the Chair and Board are appointed, the Commission might consider the options for appointing a Chief Executive. However, the options and process to appoint a Chief Executive will need careful consideration in consultation with the Public Service Commission.

Depending on the timing of the Board appointments and the commencement of the legislation, arrangements to appoint an interim Chief Executive (permanent or acting) and other interim arrangements could be recommended by the Commission Chair. Any interim appointee would likely need to be on contract through Sport NZ until the Commission commenced and the Board ratified their preferred approach and formalised the appointment.



The Establishment Board could develop options for the Commission's consideration, including on the appointment of an interim Chief Executive. The Establishment Board could also support the early appointment of an interim Chief Executive by drafting a job description, compiling background information for applicants and material for the appointee, initiating job-sizing activities, and preparing for the selection of a recruitment agency, should the Commission choose to take that route.

Regardless, early engagement with the Public Service Commission on the Chief Executive appointment process as well as remuneration options will be important. Sport NZ and Manatū Taonga will also need to be involved in these early discussions to confirm contractual arrangements and ensure that all organisations are appropriately informed.

The Establishment Board and Drug Free Sport NZ may also wish to work with Manatū Taonga and the Public Service Commission on future monitoring arrangements, funding processes, Crown Entities Act requirements and reporting in relation to the set-up of the Commission alongside the winding up of Drug Free Sport NZ.

Change management - Drug Free Sport NZd

The Bill provides that all employees of Drug Free Sport NZ, other than the Chief Executive, will become employees of the Commission on the same terms and conditions immediately on commencement of the Commission.⁸

The Director has joined Drug Free Sport NZ's fortnightly staff meetings from time-to-time to provide updates about the work of the Integrity Transition Programme. In particular, the updates were used to confirm the provisions in the Bill relating to Drug Free Sport NZ and to provide the opportunity for staff to ask questions. The Director has also attended the Drug Free Sport NZ board twice and provided further updates.

The Chief Executive of Drug Free Sport NZ has confirmed that the Drug Free Sport NZ team has been told that all the operations will roll over directly into the Commission. They have also been told of the content of the legislation, and specifically on the point of employment, as well as having been provided with the link directly to the legislation.

We understand that many of the staff at Drug Free Sport NZ are interested in the location of the Commission, which could affect their view on their ongoing employment (the Drug Free Sport NZ office is located in Auckland). The Chief Executive has noted that it is not possible to say for certain what the location of the new Commission will be, but that at this point they should all expect to continue doing the jobs they are currently doing, albeit in an entity with a new name. Furthermore, the Chief Executive has highlighted that the expanded remit of the Commission may mean there are new opportunities for learning and development, and career progression.

All prospective employees of Drug Free Sport NZ are being informed that Drug Free Sport NZ will be disestablished in the first 6 months of 2024. They are being informed that the roles will continue into the new entity. Drug Free Sport NZ recently successfully recruited a General Manager (GM) role. The individuals being interviewed were told the same information as above, albeit with the additional piece that it was not clear at the time whether the GM roles would be rolled directly into the new Commission or would otherwise be advertised and go to market (Drug Free Sport NZ had not seen the draft legislation at this stage). The new GM accepted and started the role with that risk having been highlighted.

The Drug Free Sport NZ leadership team intends to continue engaging individually with their team members as well as having this as a regular and frequent agenda item in team meetings, including with the Director. This will provide a forum for key messages (including repeating previous assurances), for staff to raise queries, and to remind staff they can raise questions outside of the team meeting. The Chief Executive anticipates that interest, and therefore potentially concerns, will increase over the course of the year, and particularly while the legislation is in Parliament.

We **recommend** that the Establishment Board meet with Drug Free Sport NZ to discuss change management, including to determine any need to mitigate risks associated with staffing given that the Commission will be reliant on smooth transfer of operations from Drug Free Sport NZ. It may be appropriate also to request regular updates on staff engagement, turnover, and any recruitment.

⁸ Integrity Sport and Recreation Bill, Schedule 1, clause 3 refers.

The Bill also provides that Drug Free Sport NZ assets are vested in the Commission on commencement, including property, information, money, rights, liabilities, contracts, entitlements, and engagements.

Now that the Bill has been introduced, we consider it important that the Establishment Board understands the operations of Drug Free Sport NZ which will form the majority of what the Commission will commence with. The Integrity Transition Programme and Drug Free Sport NZ are beginning work on a stocktake of these to review with the Establishment Board. This is intended to help mitigate risk associated with the changes, and to help ensure the best possible situation for commencement of the Commission. This stocktake includes:

- organisational strategy and board charter;
- statutory requirements for reporting such as Statement of Intent, Statement of Performance Expectations and Letter of Expectation;
- key relationships with other national anti-doping organisations and other institutions;
- business plans;
- risk management profile and plans;
- employee contracts, terms and conditions;
- policies, delegations, and procedures;
- values;
- HR procedures and systems;
- health and safety policies and records;
- financial records, reports and systems; and
- contract and service agreements.

Again, we recommend that Establishment Board meet with Drug Free Sport NZ early on in its work to gain an understanding of these areas and what (if any) adjustments may be required through the transition phase.

Change management - Sport New Zealand

The Commission will take over appropriate integrity functions from Sport NZ, such as the development and provision of tools and resources to support the sector and lift capability. The Integrity Transition Programme and Sport NZ have a 'work in progress' document outlining how the entities' respective functions interact, to help ensure role clarity.

Most significantly, the Commission will take over the provision of complaints handling and mediation services currently provided via the Sport and Recreation Complaints and Mediation Service (SRCMS).⁹ As noted above, Sport NZ has a contract with Immediation New Zealand Limited for that service (see page 32). This contract was due for renewal in February 2023. Sport NZ provided information about this renewal and sought approval from the ITC before

⁹ <https://www.sportsmediationservice.org.nz/>

seeking Sport NZ Board approval (via email on 10 October 2022) to renew the contract for two years.

Sport NZ has an Integrity Team, currently comprising two FTE. Both people in those permanent positions are currently acting in other roles (i.e. the manager of that team is working in the Integrity Transition Programme, and the other is acting as manager of the Integrity Team).

There is no provision in the Bill for Sport NZ employees to transfer to the Commission. Sport NZ is responsible for supporting staff impacted by the establishment of the Commission when functions transfer. The ITC's working assumption is that these employees would be offered the same or substantially similar roles in the Commission, but the Establishment Board may wish to confirm this at an appropriate time.

The Group Manager, Strategy, Policy and Investment has been keeping the Sport NZ Integrity Team up to date with progress of the transition and relevant timeframes. The Integrity Transition Programme has similarly provided updates to the Sport NZ Integrity Team, and have also collaborated with the team where appropriate (e.g. to deliver the webinar on the Code).

Change management - Integrity Transition Programme team

The Integrity Transition Programme team will continue to support the Establishment Board. As with Sport NZ, the Bill does not say anything about Integrity Transition Programme staff transferring to the Commission.

The Integrity Transition Programme team are currently employed by, contracted to or seconded with, Sport NZ. Specifically, the Integrity Transition Programme team consists of:

- the Director - on a 12-month fixed term variation of employment with Sport NZ to this role, until cessation of the Integrity Transition Programme;
- the Transition Operating Officer - on a 12-month fixed term variation of employment with Sport NZ to this role, until 28 July 2023 (Sport NZ have commenced steps to extend this to the cessation of the Integrity Transition Programme);
- the Integrity Transition Programme Manager - engaged on a consultant contract with SportNZ, with a current expiry date of 31 December 2023;
- Principal Policy Advisor - employed on a fixed-term employment agreement with Sport NZ until 2 August 2024 specifically to undertake work on the transition;
- Senior Policy Advisor - on secondment from a government department until December 2023; and
- three people (approximately 1 FTE) engaged via contracts for services when needed to provide project administration, marketing and communications, and human resources change management advice and support.

The ITC's view is that the change management process should expressly consider the position of the Integrity Transition Programme team, who have developed a good set of skills and experience which should be retained in some form in the Commission.

Delimiting the functions of the Commission and Sport New Zealand

Sport NZ will continue to fulfil its statutory functions, which include (among other things) to:¹⁰

- develop and implement national policies and strategies for physical recreation and sport;
- provide advice to the Minister on issues relating to physical recreation and sport;
- provide advice and support for organisations working in physical recreation and sport at national, regional, and local levels; and
- represent the Government's policy interests in physical recreation and sport internationally.

This means there is some overlap between the respective entities' functions, which will require consideration to avoid duplication and confusion.

Sport NZ will administer the legislation establishing the Commission and will continue to provide policy advice to the Minister for Sport and Recreation in terms of the sector. At present Sport NZ Policy also provides policy support to Drug Free Sport NZ in relation to international meetings.

The Integrity Transition Programme team has requested that Sport NZ Policy provide information on what they envisage the policy role, as it relates to integrity, to involve in practice once the Commission is established. Sport NZ Policy is currently scoping its ongoing role. In addition to administering the legislation, their role is likely to include the consideration of the features of a successful integrity system in order to be in a position to undertake or support a review of the legislation as required after 5 years.

We **recommend** that the Establishment Board also develop a view on the appropriate boundaries for the work of the Commission and Sport NZ, given they will be separate entities and it will be vital to maintain the independence of the Commission.

Te Tiriti o Waitangi and Māori engagement

Te Tiriti o Waitangi interests in sport and recreation

To support development of the Bill, the Integrity Transition Programme undertook analysis to identify te Tiriti o Waitangi interests in the sport and recreation sector and how these interests should be reflected in the establishment and design of the Commission. This analysis was informed by initial engagement with Māori (see below), advice from Martin Jenkins, and our own discussions.

In summary, Māori have te Tiriti o Waitangi interests in the sport and recreation sector, including:

- Māori retain tino rangatiratanga over ngā taonga tākarō (sports, recreation and games within te ao Māori) – these are grounded in mātauranga Māori, support whakapapa connections, and Māori have kaitiaki responsibilities to protect these forms of knowledge and cultural expression;

¹⁰ Sport and Recreation Act 2002, section 8 refers.

- Māori want to maintain autonomy and kaupapa Māori approaches such as Māori sport organisations that have been established to meet Māori aspirations and needs;
- recognition and promotion of te ao Māori in the play, active recreation and sport sector including of te reo me ōna tikanga and mātauranga Māori;
- Māori need to be represented and participate at all levels within the sector including in governance;
- there are significant equity considerations in relation to participation, discrimination, resources, accessibility of sport and recreation and hauora outcomes; and
- Māori are seeking genuine partnerships with the Crown.

In order to ensure that the Commission is able to contribute to preventing and addressing integrity threats for Māori participants in sport and active recreation, we consider that the Commission needs to:

- be known and trusted by Māori participants and their whānau, hapū and iwi, and Māori sport and recreation organisations;
- involve Māori in a decision-making capacity (e.g. governance) of the Commission, not just an advisory role;
- have a board and workforce with a strong understanding of te Tiriti o Waitangi, and able to identify and respect Māori rights and interests in sport and recreation
- be able to understand and apply tikanga Māori throughout the organisation;
- build relationships with Māori, including in developing and implementing integrity codes; and
- provide services to which respond to the needs and aspirations of Māori.

Legislative obligations on the Commission with respect to Māori rights and interests

Informed by the considerations identified through te Tiriti analysis, the Bill contains five clauses that relate to te Tiriti o Waitangi and te ao Māori as set out in the table below.

Clause	Outcome sought and expected effect
<p>11 – Eligibility for appointment as member of Board</p> <p>This clause provides that the Board needs to collectively have knowledge and experience across several areas including te Tiriti o Waitangi, and at least 2 members must have experience and expertise in te ao Māori and tikanga Māori.</p>	<p>This clause is intended to ensure that Māori perspectives, values, rights and interests are understood and represented in the Commission's governance. Feedback from engagement with Māori indicates that acting in an advisory capacity only is not sufficient.</p> <p>This clause will ensure that the Board has the appropriate knowledge and experience at the governance level so it can deliver its various functions in ways which are responsive to Māori rights and interests.</p>
<p>13(g) – Functions of Commission</p> <p>This clause provides that the Commission provide 'culturally responsive' dispute resolution mechanisms.</p>	<p>This clause requires the Commission to provide dispute resolution processes that are appropriate and meet the cultural needs of the parties. For Māori parties, this will include tikanga-based and whānau centred forms of dispute resolution.</p>

Clause	Outcome sought and expected effect
<p>15 – Duties of Commission when carrying out its functions</p> <p>The clause requires that the Commission maintain the capability and capacity to carry out its functions in a way that is responsive to—</p> <p>(a) tikanga Māori and the rights and interests of Māori; and</p> <p>(b) te Tiriti o Waitangi/the Treaty of Waitangi.</p>	<p>“Responsiveness” entails acting in an informed, timely and receptive manner. Taken alongside other obligations in the Bill, this includes having the capability and capacity to:</p> <ul style="list-style-type: none"> • Build effective relationships with Māori • Understand relevant rights and interests in sport and active recreation • Develop procedures which appropriately reflect tikanga, and • Provide culturally appropriate services to Māori participants, e.g. dispute resolution. <p>The focus on capability and capacity also ensures that the need to be responsive to Māori rights and interests is taken into account in key business processes such as recruitment and organisational culture, strategic planning, service design and delivery, and financial planning.</p>
<p>16 – Commission to have effective means of seeking views</p> <p>This clause requires the Commission to have effective means of seeking the views of Māori and other relevant stakeholders.</p> <p>20 – Consultation on integrity code</p> <p>24 – Consultation on anti-doping rules</p> <p>These clauses require the Commission to consult with Māori (and other relevant stakeholders) before making integrity codes or sports anti-doping rules.</p>	<p>The intention behind these clauses is to ensure the Commission engages with Māori. Specifying Māori is essential because of the particular constitutional relationship with the Crown and so the Commission is able to make informed decisions about matters which may affect Māori rights and interests.</p>

Designing how these obligations are given practical effect will be a core part of the establishment work. Ongoing engagement with Māori and working closely with the Māori Advisory Group will be vital to ensure that the Commission is set up well to perform its functions and have the trust and confidence of Māori participants and Māori organisations.

Initial engagement and market research

In August 2022, the Integrity Transition Programme had initial engagement with a small group of Māori involved in the sport and recreation sector. Not all participants supported the establishment of a new entity. However, the group collectively expressed a range of views and highlighted several issues, including:

- low levels of trust around leadership of government agencies and funding of the sector;
- inequalities and discrimination experienced by Māori in the sector;
- desire for autonomy and self-determination of Māori organisations in the sector;
- the need for strong cultural competency across the system;
- ensuring strong athlete and participants voice and pathways that support their wellbeing;

- Māori representation at governance level, not being relegated to advisory roles and the importance of collective decision making and wānanga; and
- lack of protection for tikanga, cultural expressions (such as haka), language and naming.

In November 2022, the Integrity Transition Programme commissioned Gemba – a sport and entertainment company who have a dedicated research division – to undertake market research to gather insights into people’s current understanding of integrity and their experiences, and to better understand the experiences of specific groups including Māori. Gemba research (see more below on page 25). In relation to Māori, key findings from the research included that:

- a high proportion of Māori respondents had children involved in sport (29%);
- Māori had high rates of exposure to integrity issues (51% had experienced integrity issues in the past compared to 38% of the total population);
- knowledge of how to raise an issue was slightly higher among Māori respondents (67% compared to 61% of the total population);
- over 60% of Māori respondents were supportive of an independent government entity to investigate integrity issues and of penalties for organisations that didn’t meet standards; and
- the most important issues for Māori respondents were bullying, sexual harassment, racism and abuse of children.

These findings reaffirm that Māori participants will be a key user group for the Commission given that Māori have high exposure to integrity matters and are aware and supportive of pathways for resolving issues.

Te Tiriti o Waitangi workshop



In December 2022, Te Huia Bill Hamilton facilitated a half-day wānanga on te Tiriti o Waitangi. This was attended by members of the Māori Advisory Group, Tim Castle on behalf of the ITC, and the Integrity Transition Programme team. The session focussed on the concept of tūrangawaewae and attendees considered that this was enormously beneficial for their personal understanding and as a foundation on which to progress engagement with Māori.

The key takeaways from the session included a stronger understanding of the rights and responsibilities associated with tūrangawaewae, te Tiriti as a founding document that belongs to all people, and te Tiriti as the ‘promise of two peoples to take the best care of each other.’

The Establishment Board may want to consider having further te Tiriti workshops to support the next phases of work to establish the Commission.

Targeted engagement with Māori

In January 2023, the Integrity Transition Programme engaged Pou Tikanga (an arm of the National Iwi Chairs Forum with a focus on human rights and rangatiratanga) to facilitate targeted engagement with Māori. Five engagement hui were held and were attended by 31 participants representing a range of perspectives and experiences including as participants, administrators and whānau.¹¹

The primary purpose of these was to hear from Māori about their experience of integrity issues – both good and bad – while playing sport or being involved in recreation. This background information was provided with the details of hui date/time options, and shared through various networks.¹²

The key themes from the targeted engagement were:

- **sport and recreation are positive spaces with significant opportunities for whānau Māori** – sport and active recreation was a way to connect to whakapapa and whānau, and express manaakitanga and rangatiratanga, particularly in Māori sporting contexts.
- **interpersonal racism targeting Māori is prevalent in sport** – examples included derogatory and racially abusive comments, being told not to speak te reo Māori and negative consequences for practicing tikanga. People spoke of the mamae and whakamā this caused, particularly for rangatahi and tamariki, and led to some people no longer taking part in their sport/activity.
- **structural racism and inequitable opportunities are also concerns** – participants were concerned with equity of funding for grassroots sports in particular. The lack of funding and structural barriers meant that Māori don't start at the same level as non-Māori and the gap grows over time. Some participants linked the structural issues to the ongoing impact of colonisation that leads to marginalisation, racism, barriers to funding, and exclusion from mainstream spaces.
- **tikanga Māori and Te Tiriti o Waitangi would provide a positive foundation for the sector** – participants highlighted ngā uaratanga (values) such as manaakitanga, whakawhanaungatanga, kaitiakitanga as values that could underpin the system and shape good integrity for Māori and for all participants. Participants also suggested holding people accountable, improving Māori representation in governance and leadership and having a focus on rangatahi as the future of the sector.

The Integrity Transition Programme has prepared a full summary of the feedback from the targeted engagement. This summary is being tested with the people who took part in the targeted engagement at a session facilitated by Pou Tikanga on 11 May 2023. A final report will be provided to the Establishment Board shortly after that session.

Recommended approach for ongoing Māori engagement

Further engagement with Māori is needed to support the establishment of the Commission, the design of its services and functions (e.g. dispute resolution) and development of the code. This

¹¹ Three online hui and two kanohi-ki-te-kanohi hui in Tāmaki Makaurau and Ōtautahi

¹² The background document is available on the [Integrity Transition Programme website](#).

engagement should take place with a view to building ongoing, enduring relationships between the Commission, Māori participants and Māori organisations.

The Establishment Board may want to meet with key Māori stakeholders in the sector (e.g. Te Huinga Tākaro Māori, Māori sports organisations) to hear firsthand their views on integrity. The Integrity Transition Programme can facilitate this.

The Integrity Transition Programme has developed a Māori engagement plan and is seeking external expertise to refine and update the plan and facilitate engagement later in 2023 (e.g. with iwi, hapū, and Māori organisations, and at key sport and cultural events). The Māori Advisory Group will also continue to have an important role in the design and implementation of the engagement plan.

Māori Advisory Group

The Māori Advisory Group was established in November 2022 to support the ITC to ensure their work was undertaken in a bi-cultural manner. The Minister has also expressed his intention for the establishment and ongoing work of the Commission to be undertaken in a bi-cultural manner. The Māori Advisory Group has made important contributions to shaping the transition work to date, including informing the Treaty analysis and policy advice on the Bill and development of the Māori engagement plan. However, there is an opportunity for the Māori Advisory Group to have a stronger role in supporting the Establishment Board in the design and development of the Commission.

We **recommend** that the Establishment Board and the Māori Advisory Group meet ā-tinana at the earliest opportunity for whakawhanaungatanga and to discuss and agree a model for working together.

Membership of the Māori Advisory Group

There are currently five members of the Māori Advisory Group (see biographies at **Appendix Five**):

- Hera Clarke – Aotearoa Māori Netball (member since November 2022);
- Andrew Tara – New Zealand Cricket (member since November 2022);
- Nicole Dryden (member since November 2022);
- Mita Graham – Te Huinga Tākaro Aotearoa (member since March 2023); and
- Kuruno Wereta – Recreation Aotearoa (member since March 2023).

Two ITC members, Traci Houpapa (until March 2023) and Tim Castle, have been members of the Māori Advisory Group, acting as conduits between the Māori Advisory Group and the Committee. This approach has worked well and we suggest that an Establishment Board member (or members) continue in a similar role.

The current membership includes a broad range of expertise and experience across sport and recreation including Māori sports organisations. Members are paid under the Cabinet Fees Framework.

There are identified gaps in representation for tāngata whaikaha (disabled people) and from Te Waipounamu which we **recommend** be addressed soon after the Establishment Board and Māori Advisory Group have agreed a way of working together.

Role of the Māori Advisory Group to date

The Māori Advisory Group was established in line with our terms of reference, which required that the ITC work with a Māori Advisory Group, but was relatively silent on what that working model should be. It was intended that the Māori Advisory Group would assist the ITC to move beyond minimum requirements and to seek opportunities to move toward a strategic, empowering Treaty of Waitangi approach. We also envisaged (and agreed in the ITC meeting on 9 August 2022) that the Māori Advisory Group would:

- ensure the ITC is meeting its obligations and can respond to strategic opportunities;
- act as an interface between Māori partners and the ITC;
- help to translate Māori concepts and values into practical solutions; and
- have the ability to report directly to the Minister on actions the ITC is taking to protect and promote Māori rights and interests.

In practice, the Māori Advisory Group has operated in a more limited capacity, providing advice on a small range of matters that have been brought to its attention by the Integrity Transition Programme (e.g. Māori engagement). Several factors have contributed to this, including the time required to establish the group, departure of one member from it, and its small membership and limited capacity up until recently.

Despite these limitations, the Māori Advisory Group is engaged and has provided robust advice and support on the matters put before it. Members have strong links with, and are accountable back to, hapū, iwi and hāpori Māori.

Developing a stronger model for the Māori Advisory Group and the Establishment Board

In our view, the transition from the ITC to the Establishment Board provides an opportunity to strengthen the relationship between the Māori Advisory Group and the Establishment Board. The Māori Advisory Group is not provided for in the Bill, however the legislation requires the new entity to have the necessary capability and capacity to be responsive to tikanga Māori, the rights and interests of Māori and te Tiriti o Waitangi, and to have effective means of seeking views from Māori.

The Māori Advisory Group will have a key role in guiding how the Commission gives effect to these obligations and will complement Board members with tikanga and te ao Māori expertise and experience.

A stronger model of working together and greater utilisation of the collective expertise within the Māori Advisory Group will also give the Establishment Board, and Māori organisations and participants, confidence that the Commission is meeting its statutory obligations and is responsive to the needs, rights and interests of Māori.

The Integrity Transition Programme will provide advice to the Establishment Board and the Māori Advisory Group in May 2023 seeking joint agreement to a proposed way of working. At a high-level the advice will focus on:

- clarifying the role and responsibilities of the Māori Advisory Group in relation to the Establishment Board (e.g. through a Terms of Reference) and seeking agreement to a way of working together (e.g. meeting rhythms, and how the Māori Advisory Group can best inform the Establishment Board's work)

- providing the Māori Advisory Group with greater visibility of the Establishment Board's work so that it can identify opportunities, issues and risks from a Te Ao Māori perspective, and
- identifying priority areas for the Māori Advisory Group to provide leadership and advice on (e.g. ongoing Māori engagement and longer-term relationship building, identifying Te Ao Māori approaches and ngā uaratanga that should underpin the design of the Commission and its processes).

We also agreed to request advice from the Māori Advisory Group on a culturally appropriate model for the disciplinary panels.

Engagement with Pacific peoples

The Integrity Transition Programme has supported efforts by ITC member Tim Castle to approach leaders in the Pacific community, both participants and supporters, to discuss options to engage. One of these leaders is Keven Mealamu, who is a current member of the Drug Free Sport NZ board.

There has been general support, however efforts were hampered somewhat by the severe weather events in early 2023, which understandably resulted in a shift of priorities. Connections have now been re-established and further discussions are planned for mid-May 2023. The Integrity Transition Programme will also utilise existing networks in the sector through Sport NZ and Regional Sport Trusts, where more localised groups are established.

The outcome of these discussions will inform the approach, but the engagement could look similar to the Māori engagement, with any necessary modifications to respond to the particular needs and concerns of Pacific peoples. As with the Māori engagement, we suggest the Establishment Board see these initial approaches as part of the beginning of a perpetual conversation.

We **recommend** the Establishment Board work with the Integrity Transition Programme team to ensure the inclusion of Pacific voices throughout the Board's work and ensure the Commission is well positioned to continue these relationships.

Development of National Code of Integrity for Sport and Recreation

As noted above, Cabinet agreed that one of the core functions of the Commission would be to develop and issue integrity codes. Organisations in the sector can opt-in to an integrity code and, when they do, the organisation and its members (whether an individual or another organisation) will be bound by the code.

Clause 19 of the Bill empowers the Commission to make integrity codes and sets out the scope of what may be included in them. The drafting deliberately provides for the possibility of issuing more than one code. The intention is to preserve the possibility for the Commission to decide, in light of consultation, that it is desirable to issue different codes in relation to different integrity threats (e.g. separate competition manipulation code) or different parts of the sector (e.g. separate codes for sport and recreation).

The ability to develop and issue the Code is solely vested in the Commission, albeit with legislative requirements in relation to consultation (see below). Unlike the Bill, the Commission will be directly responsible for drafting and publishing the Code, which will be deemed to be secondary legislation. Sport NZ may be involved in consultation, but will not have a direct role.

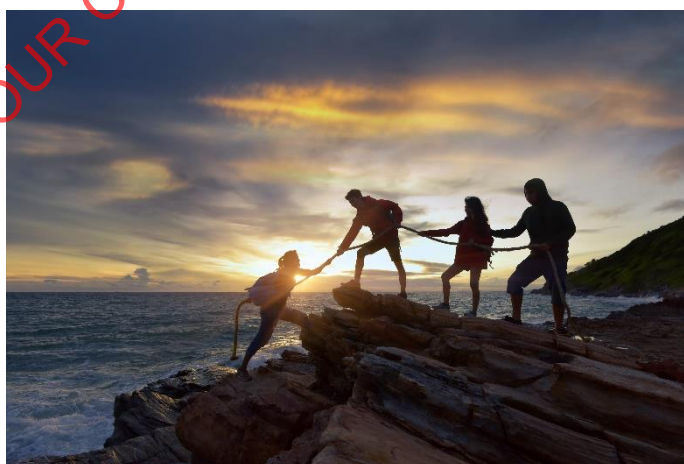
Early design work in relation to the Code

In early 2023, we held a workshop on possible approaches to the drafting and design of the Code. We considered a range of relevant focus questions, including whose conduct should be the focus of the Code, whether the Code should set minimum standards or be “aspirational”, and the approach to discipline and sanctions. During that discussion, we agreed on several points, including that the Code should:

- articulate guiding principles which are central to the integrity of sport and recreation;
- set out the rights and obligations of participants (i.e. how people can expect to be treated and should treat each other);
- place the onus for preventing and addressing integrity threats onto sport and active recreation organisations;
- require organisations adopting the Code to meet minimum standards in relation to preventing and responding to integrity concerns; and
- support the ability for the Commission to intervene where necessary, including at the investigation and/or disciplinary stage.

In relation to the overall drafting approach, we reached a general consensus that the Code should not be too prescriptive. For example, the minimum standards could require organisations to adopt and implement certain policies and procedures (e.g. a complaints policy) and an indication of the principles on which those policies should be predicated. However, the Code would not need to contain the policy itself in any detail. Rather, the Commission can issue “model standards” alongside the Code to help organisations understand how to comply with their obligations and/or what best practice looks like.

To support our discussions, the Integrity Transition Programme prepared an outline of a possible structure for the Code, which also indicates different possibilities in approaches to drafting. The outline is included as **Appendix Six**.



While we have attempted to draft this to give a reasonable indication of how the Code could be structured and some choices around content, it is not a complete draft and nor does it predetermine what will arise out of further consultation and engagement. Rather, we hope that it is a useful template for the Establishment Board to build on as the work progresses.

Legislative duty to consult in relation to the Code

The Bill includes procedural requirements in relation to developing, issuing and reviewing the Code. Specifically, clause 20(1) provides that:

Before making an integrity code, the Commission must consult participants, Māori, other relevant stakeholders (including Pacific peoples, disabled people,

children and young people, and rainbow communities), and the Privacy Commissioner on the proposed code.

The Bill does not prescribe how consultation must occur. In the absence of specific statutory requirements, the elements of a legislative obligation to consult are that:¹³

- consultation includes listening to what others have to say and considering the responses;
- the consultative process must be genuine and not a sham;
- sufficient time for consultation must be allowed;
- the party obliged to consult must provide enough information to enable the person consulted to be adequately informed so as to be able to make intelligent and useful responses; and
- the party obliged to consult must keep an open mind and be ready to change and even start afresh, although it is entitled to have a work plan already in mind.

The transitional provisions also provide that any consultation in relation to the Code undertaken before the commencement date of the Bill is valid and effective if, had it been done after the commencement date, it would have been in accordance with section 20.¹⁴ This means that any consultation undertaken from the date of enactment will count towards meeting the Commission's statutory obligations – which, in turn, should aid in promulgating a Code as soon as possible. The Establishment Board may wish to seek further advice on this point.

In any case, we **recommend** that the Establishment Board adopt an engagement plan for the Code that aligns with the Commission's statutory requirements. We have set out below the engagement undertaken to date and a potential approach for the Establishment Board to consider (see page 27).

Gemba research

Existing research undertaken by Sport NZ, such as the 'Active NZ' survey, provides useful insight around current integrity-related issues and participants' confidence in organisations. However, there has previously been no targeted market research into overall awareness or experience of integrity in the New Zealand sport and recreation context.

In November 2022, the Integrity Transition Programme commissioned Gemba to undertake market research. Between 30 November and 12 December 2022, Gemba – via a series of research panels – surveyed 1,020 people in New Zealand involved in sport and active recreation.

The purpose of the research was to:

- benchmark the current integrity landscape – gather insights and sentiment into people's current understanding of integrity and their experiences;

¹³ *Wellington International Airport Ltd v Air New Zealand Ltd* [1993] 1 NZLR 671, as described by Asher J in *Diagnostic Medlab Ltd v Auckland District Health Board* [2007] 2 NZLR 832. Cited in *Legislation Design and Advisory Guidelines* (2021), Chapter 19.

¹⁴ Integrity Sport and Recreation Bill, Schedule 1, clause 8.

- better understand the experiences of specific groups – in particular to understand the experiences of specific groups, including Māori, Pacific peoples, disabled people, active recreation participants and rangatahi; and
- explore the role and scope of the Code – in the event of an integrity issue, better understand what participants think is their responsibility as well as what is the responsibility of the Commission.

There were several key insights from the Gemba research which we want to highlight. These include:

- 45% of respondents were aware of integrity issues occurring within a sport or active recreation activity they were involved with (poor sideline behaviour was the most recalled issue);
- 38% had experienced some form of misconduct directly while they were involved with sport or active recreation;
- 61% of those people said they know how to raise an integrity issue – but awareness of the mediation and complaints service was lower at 19% for the general population;
- 84% of people believed that integrity is crucial in ensuring a safe, fair and inclusive environment for all participants;
- integrity is a significant factor in parental decision-making, with 93% of parents saying they consider integrity when enrolling their children into different activities, and 91% reporting they would consider withdrawing their child if they observed misconduct;
- personal accountability for sustaining a safe and fair environment within sport and active recreation clubs was high, with the majority of respondents saying they understood their role in maintaining integrity;
- bullying, sexual harassment and racism, were identified as the three most important issues, however this differed by audience;
- bullying and sexual harassment were highlighted as areas of highest concern for women;
- Māori and Pacific peoples placed additional focus on racism and violence being addressed, and
- cheating, bullying and poor sideline behaviour were three issues identified as high priority and high incidence.

We also asked respondents questions in relation to the role and purpose of the new entity. There was broad support (over 60%) from the general population for a government entity to be able to investigate integrity issues in both sport and recreation. Of the population groups, only teens/rangatahi did not report majority support for this initiative. Similarly, there was broad support for penalties to be imposed on organisations that did not meet minimum standards of integrity.

The research also provided the opportunity to test the types of questions the Establishment Board might wish to ask as part of any public consultation in relation to the Code.

Sector engagement

More than 550 people from over 230 organisations were invited to the sector update sessions in February and March 2023.

These sessions were tailored a little for each audience, and covered:

- the journey to date, from high performance reviews in 2018, through to the transition programme and plans for establishment of the new entity;
- experiences and expectations, based on survey data and insights;
- opportunities to engage in development of the Code and the Select Committee process relating to the Bill that will establish the new entity; and
- ways the sector can support and promote opportunities for their members and others to feed into the public consultation relating to development of the Code.

More than 140 people attended these sessions, most of which were held online.

The webinar on 8 March was open to the public and promoted through Sport NZ and HPSNZ's sector updates. The recording of the webinar is available online.¹⁵

The notes from the hui have been summarised and the FAQ section of the website updated to more widely share responses to questions that were raised.¹⁶

Potential approach to Code engagement

In recent years, the IWG, Sport NZ and the ITC have each engaged with the sector on the establishment of a new entity and the possibility of a Code. This engagement is reflected in several resources, including the Sport Integrity Review, IWG Report and this report. These resources will provide valuable insights for the Establishment Board as it develops the Code.

Nevertheless, further engagement will be necessary to ensure that key groups (e.g. participants, Māori and organisations within the sector) and the wider public feel they have contributed to the development of the Code. This will help to ensure buy-in, raise awareness, and ensure the statutory requirements for consultation are met. Ongoing engagement with Māori will also help fulfil the Commission's te Tiriti o Waitangi commitments. We therefore recommend that the Establishment Board adopt an engagement plan in relation to the development of the Code.

With this in mind, the Integrity Transition Programme has continued to refine plans for engagement and prepare relevant materials. For example, the Integrity Transition Programme has commenced:

- development of a public survey to seek a broad range of views relating to the content of the Code; and

¹⁵ See [Webinar: Developing a national code of integrity for the sport and recreation sector - Integrity Transition Programme](#).

¹⁶ [FAQs - Integrity Transition Programme](#).

- the establishment of focus and reference groups, based on those communities and groups with which the Commission must consult on the Code.

The public survey is in draft form and ready to test with key groups (e.g. rangatahi). At our final meeting, we also discussed the need to ensure that the Establishment Board is clear on what information gaps the survey will fill and adjust it as necessary to meet those needs.

The focus and reference groups are at more of a conceptual stage, but we are strongly supportive of exploring this option further. The Establishment Board may wish to prioritise these efforts, including a drafting reference group.

We also discussed the importance, in our view, of the Establishment Board providing stakeholders with more information on the options for how a Code might be drafted. Our assessment is that the sector is looking for leadership in this area and that meaningful engagement will require further information about concepts or options for the Code.

Levers and incentives for adoption and compliance

As noted above, we accounted for the risk that organisations do not adopt the Code in the design of the Commission's monitoring and investigative functions.¹⁷ These policy decisions reduce the reliance on Code adoption to some extent.

However, we consider that the system will only function as intended if a critical mass of organisations adopt the Code. To that end, we explored several options to incentivise adoption of, and compliance with, the Code.

The primary option we considered was Sport NZ's funding and recognition levers. Sport NZ's investment in partner organisations is dependent on the organisations continuing to meet the eligibility criteria. Only organisations that have met Sport NZ's eligibility criteria can receive sports betting revenue from the TAB. Some organisations seek Sport NZ recognition, which is a process that applies the same eligibility criteria as for Sport NZ partnership investment and TAB revenue, to achieve credibility in the sector and in the hope that this will enhance their funding opportunities.

Around 100 organisations have been recognised by Sport NZ in this way. Between them, they report about 9,000 affiliates and total membership of more than 1 million people.

We note that, in both Australia and Canada, federal funding has been made contingent on national sports organisations adopting their equivalent of the Code. Adoption of the Sports Anti-Doping Rules is already part of the eligibility criteria in Aotearoa New Zealand also.

There is no mechanism in the Bill for the Commission to require the suspension of funding or recognition for organisations which do not adopt the Code. This is because decisions on funding will continue to sit with Sport NZ.

Sport NZ is a public entity and, as such, has responsibilities to ensure public money is spent appropriately and is accountable for that spending. Sport NZ has recently used its funding lever to facilitate compliance in relation to gender equity on boards. Funding withdrawal is

¹⁷ Namely, the ability to investigate threats to integrity, and the statutory powers to obtain information from specified organisations, regardless of Code adoption.

considered as a 'last resort' after wrap-around capability support has been offered and the organisation provided with sufficient opportunity to comply.

However, there is no guarantee that Sport NZ would withhold funding from national sports organisations as a result of a refusal to adopt the Code, or for poor or non-compliance. The path available to the Establishment Board and the Commission is one of persuasion and influence.

On that basis, we strongly suggest that, in developing the Code and an adoption process, the Establishment Board take active steps to:

- advocate for Sport NZ to include adoption of the Code in its funding and recognition criteria;
- draft a Memorandum of Understanding between Sport NZ and the Commission in relation to funding/recognition for organisations which do not adopt the Code and/or who do not comply with the Code.

We also considered other levers and incentives to increase adoption and compliance. The options we considered, along with a high-level assessment of the advantages/disadvantages, are summarised in the table below:

Lever / Incentive	Advantages	Disadvantages
Develop an integrity certification scheme	<ul style="list-style-type: none"> • Does not require legislative change • Provides a positive incentive to complement potential negative consequences of non-adoption (e.g. investigation or funding withdrawal) • May appeal to some organisations as it would create an independent means to strengthen an organisations' reputation and attract participants 	<ul style="list-style-type: none"> • Upfront cost and time to undergo training or exhibit compliance • May not be effective at motivating organisations who are not inclined to adopt • Certifying an organisation which is found later to breach the Code poses a risk to the Commission's reputation
Make adoption mandatory for sport and active recreation organisations that receive Class 4 funding from gaming machines in pubs and clubs	<ul style="list-style-type: none"> • Would provide further financial incentive to adopt the Code 	<ul style="list-style-type: none"> • Requires legislative change • Inconsistent with decision not to legislate a requirement to adopt • Potential perception issues in linking gambling revenue to integrity entity
Require adoption for all sport and active recreation organisations that wish to register as a charity	<ul style="list-style-type: none"> • Any organisations that operate as charities would be strongly motivated to adopt the Code 	<ul style="list-style-type: none"> • Requires legislative change • Inconsistent with decision not to legislate a requirement to adopt

		<ul style="list-style-type: none"> • Would make the process of applying for charitable status more onerous • Not relevant for a large number of charities, or for many of the organisations in the sector
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Of these options, only the certification scheme appears viable, at least at this point in time. The Establishment Board may wish to explore this option further – potentially as part of a second phase of encouraging adoption. The Establishment Board and/or the Commission could also seek to influence other beneficial changes, including legislative change, if there is good reason to do so. As work to develop the Code progresses, other options to encourage adoption may become apparent too.

We **recommend** the Establishment Board make options to encourage adoption of the Code a focus of further conversations with sector organisations, participants, and participant representative groups (e.g. players associations).

Designing an adoption process for the Code

Clause 21(1) of the Bill provides that an organisation in the sport and active recreation sector may, in the manner provided in the Code, adopt an integrity code.

The Commission will, therefore, have the discretion to set the process for adoption and this will need to be undertaken in parallel with the development of the Code.

At a high-level, we suspect the steps to adopt the Code would look something like:

- the Commission develops minimum requirements for adoption (e.g. required policies are in place and there is evidence they can be implemented);
- an organisation consults its members and confirms it wishes to adopt the Code;
- the organisation formally signals an intention to adopt the Code;
- the organisation provides information to demonstrate that it meets the minimum required standards;
- the Commission assesses the information and concludes that the organisation meets the minimum requirements for adoption and/or that further work is required;
- the organisation takes any necessary steps to formally adopt the Code (e.g. a constitutional amendment, creation of required policy); and
- the Commission announces the adoption and includes the organisation in a publicly available list.

Alternatively, the Commission could allow organisations to adopt and set a period of time for the organisation to reach the minimum standards before the Code comes into force.

The Bill also enables the Commission to prescribe criteria that an organisation that adopts the integrity code must satisfy in order to gain a dispensation from any provisions of the integrity

code.¹⁸ We note that an integrity code may include such criteria, but it is not required to. The Commission could choose not to provide for a dispensation process if it did not believe this was necessary or desirable.

Regardless, in designing an adoption process, the Establishment Board will wish to consider in what circumstances a dispensation from particular provisions of the Code would be appropriate (if any). The more prescriptive the Code, the more likely it becomes that an organisation would seek a dispensation.

Sector readiness and capability lift

The Bill and the introduction of the Code represents a significant regulatory shift for the sport and recreation sector. We expect that only a small proportion of organisations will have sufficiently robust systems in place to implement any new requirements of the Code, and many will lack the resources or expertise to improve their processes alone. We also are aware that some in the sector see the establishment of the Commission as meaning they will no longer have to manage integrity issues, which is not the policy intent. These factors represent potential implementation risks and, as such, any implementation plan will need to involve providing the sector with information and support.

The Code development workstream includes writing guidance and preparing other collateral to assess and support sector readiness, and to support adoption and implementation of the Code. These resources would be drafted after testing the initial draft of the Code through focus groups and expert advisors (and therefore likely to occur after the legislation has been enacted). The Establishment Board may wish to consider development of a tool to assess maturity and readiness of organisations to implement the Code.

We understand that Sport NZ continues to work on lifting integrity capability in the sector through online learning modules, direct support of partners, integrity funding and the work of its Integrity Team. There is also ongoing work to prepare the sector for the implementation of the Incorporated Societies Act 2022 (see below at page **Error! Bookmark not defined.**).

Issues arising before an organisation has adopted the Code

There will inevitably be a period between the Code coming into force and organisations adopting, regardless of efforts to encourage and facilitate adoption of the Code by the Commission. Further, while some organisations may adopt early, others could take months or years to adopt the Code.

Given the likelihood of rolling adoption of the Code during the initial operational period of the Commission, the Establishment Board may wish to consider how to respond to any respond to integrity issues which arise before an organisation has adopted the Code.

In the first instance, the Commission could take a capability-based approach, working with the affected organisation and/or parties, to support a consent-based solution for the matter at hand and to encourage the organisation to adopt the Code. Matters will also continue to be able to be referred to the Sport and Recreation Complaints and Mediation Service (the SRCMS).

However, should more serious issues arise, the Commission may need to have a contingency in place. For example, the Bill would provide the Commission with the power to undertake an

¹⁸ Clause 19(2)(1) refers.

investigation for a significant threat to integrity where it is in the public interest, regardless of Code adoption. The Establishment Board may wish to consider developing a policy to guide the use of this power so that, if necessary, the Commission can act notwithstanding a lack of adoption.

Sport and Recreation Complaints and Mediation Service

Overview of the SRCMS

The SRCMS provides a confidential service to both participants and sector organisations. It is independent of Sport NZ and High Performance Sport NZ and free at the point of delivery. This is a comprehensive service that requires access to different skill sets; triage specialists (including trauma-informed specialists), facilitated resolution services (mediators), counsellors, accessibility services, cultural consultancy (to allow for a te ao Māori approach), whistleblowing platform, case load system and investigators.

The SRCMS has been provided to Sport NZ by Immediation New Zealand Ltd (Immediation), an external service provider since February 2021. The contract with Immediation was negotiated following a Request for Proposal tender process, for an initial 2-year period with a further right of renewal. The SRCMS contract is valued at approximately \$2M - \$3M per annum (variable due to activity related charges).

Sport NZ currently funds the SRCMS from a combination of Lotto reserves and proceeds from the TAB. Upon the establishment of the Commission, the SRCMS will be funded from the Commission's baseline.

On 29 August 2022, Henry Moore from Immediation, attended the ITC meeting and spoke to the service being provided, including a thematic overview of the types of complaints the service receives. As at 31 January 2023, the SRCMS had received a total of 317 enquiries and 279 of those matters are closed. Most complaints (75%) received were from the community, and a small number were from recreation (5%).

Of the complaints received by the SRCMS:

- 29.3% were enquiries only (e.g. complainant choosing not to proceed, or the issue was resolved);
- 22.7% were concluded at the complex triage stage (e.g. referred to another avenue or complainant deciding to not take further action);
- 30.5% proceeded to early resolution with most being partially or fully resolved;
- 12.9% proceeded to mediation where most issues were fully resolved; and
- 4% proceeded to an investigation.

SRCMS contract renewal, terms and review

The Bill requires that the Commission provide independent accessible, culturally responsive and age-appropriate mechanisms for resolving complaints and disputes relating to integrity. The Bill shifts this function from Sport NZ to the Commission by amending Sport NZ's functions under the Sport and Recreation New Zealand Act 2002 to exclude responsibility for disputes to which the Integrity Sport and Recreation Act would apply.

Sport NZ, in consultation with us, agreed that a two-year contract renewal would provide continuity for the sector while the Commission determines how these services should be provided in the future. To this end, the contract now includes provision for Sport NZ to transfer the contract to the Commission if appropriate. The SRCMS processes will need to be amended to ensure they are compliant with the Commission's legislative obligations and consistent with integrity codes made by the Commission.

The current contract value at \$2 to \$3 million per annum is at the high end. The annual cost of the service to 31 March 2023 was \$1.8 million.

However, in addition to the agreed increased charges from renewal, monthly reporting indicates the complexity and sensitivity of the cases appears to be increasing along with the number of investigations being required. Given the immaturity of the service a reliable annual baseline of enquiries has not been established. It is feasible to expect that through improved sector awareness of integrity and related issues, including through the Integrity Transition Programme actively consulting with the sector on the Code and its initial introduction, that enquiries to the service will increase.

Designing a national approach to competition manipulation

Acceding to the Macolin Convention

As indicated above, part of our terms of reference was to identify the requirements of New Zealand becoming a signatory to the Macolin Convention and implications for the new Integrity entity. We found that this instruction conflicted somewhat with Cabinet's decision in June 2022 to invite Sport NZ and the Department of Internal Affairs to undertake, in consultation with the Ministry of Foreign Affairs and Trade, a national interest analysis (NIA) in relation to New Zealand becoming a signatory to the Convention on the Manipulation of Sports Competitions (the Macolin Convention). The NIA process is the formal mechanism through which the requirements and implications of acceding to an international agreement.

In light of the Cabinet decision, Sport NZ is leading the preparation of the NIA.¹⁹ Integrity Transition Programme staff are supporting where appropriate.

The NIA process is expected to take at least six months in total, plus we expect that some legislative change would be required if New Zealand accedes to the Convention. We therefore do not anticipate that accession to the Macolin Convention will occur prior to the establishment of the Commission.

In any case, we agreed that the detailed design of the Commission should accommodate potential responsibilities of a National Platform under the Macolin Convention. In our view, the Bill achieves this by:

- including competition manipulation and the misuse of inside information as a "threat to integrity" for which the Commission has responsibility;²⁰ and

¹⁹ Sport NZ, as the lead policy agency for the sector, would normally prepare the NIA in any case.

²⁰ This language was largely drawn from the text of the Macolin Convention.

- providing the Commission with the ability to issue an integrity code in relation to competition manipulation, which would allow for more detailed regulation in this area as a basis for greater cooperation and coordination around competition manipulation.

We believe this framework will provide the ability to detect and respond to competition manipulation regardless of whether New Zealand ultimately accedes to the Macolin Convention.

Early work on developing an approach to competition manipulation

The establishment of the Commission is an opportunity to materially improve the regulatory and operational response to competition manipulation in Aotearoa New Zealand. We have overseen some initial work which we hope will put the Commission on the path to leading this improvement.

In September 2022, Integrity Transition Programme staff contacted relevant government organisations who conduct work related to competition manipulation, specifically New Zealand Police (Financial Intelligence Unit and Major Events who hold the Sport Integrity portfolio), the Ministry of Justice, Serious Fraud Office, and the Department of Internal Affairs. The team also reached out to the Racing Integrity Board and the TAB.

This enabled the Integrity Transition Programme to better understand the roles these agencies play, how they currently interact with each other, their operating environments, and potential areas for collaboration and support. Since then, the Integrity Transition Programme has met with agencies, provided updates through the Cabinet process and invited them to engagement hui. The Integrity Transition Programme team intends to re-engage with these agencies as part of expert focus and advisory groups to help develop the national approach to competition manipulation.

Additionally, the Integrity Transition Programme Director (the Director) attended the UNODC Workshop on Safeguarding Sport from Corruption in the Pacific in October 2022. In January 2023, the Director also attended the most recent meeting of a sport integrity group formed through a partnership between New Zealand Football and Police. It is now hosted by New Zealand Rugby and includes representatives from player associations, officials (referees), Drug Free Sport NZ and invited guests.

Work has also begun on identification of and meeting with various industry experts to explore their experiences in this work, both in New Zealand and overseas.

Future phases of work to develop an approach to competition manipulation

The Integrity Transition Programme team has started work to advise the Establishment Board on future phases of the competition manipulation work programme. Subject to the Establishment Board's agreement, the future phases of the work to develop an approach to competition manipulation could include:

- compiling international research on best practice approaches to competition manipulation (e.g. strategies, policies and operational practices) (early-mid 2023);
- reviewing the existing New Zealand Policy on Sports Match-Fixing and Related Corruption (early-mid 2023);
- preparing an intelligence assessment of the main risks facing Aotearoa New Zealand (early-mid 2023);

- identifying key non-government stakeholders and hold initial workshops on a potential Competition Manipulation Code (mid-late 2023);
- drafting a specific Competition Manipulation Code (early-2024); and
- consulting on draft Competition Manipulation Code (mid-2024).

The Establishment Board may also wish to consider a range of operational initiatives, such as:

- developing memoranda of understanding to support intelligence-sharing with/between enforcement bodies;
- undertaking a survey of NSOs relating to perceptions around competition manipulation and their efforts to mitigate risks; and
- meeting with experts and relevant agencies to discuss the feasibility of piloting enhanced monitoring of select local competitions.

Lastly, we suggest that the Establishment Board remain conscious that the Bill and the Code already represent significant regulatory change for the sector. This will likely impact on the timing and sequencing for the development of a competition manipulation approach and, if needed, a separate Competition Manipulation Code.

Additional implementation opportunities and challenges to consider

As noted throughout this report, there are a range of implementation opportunities and challenges relating to the establishment of the Commission and development of the Code. The Integrity Transition Programme has also begun work, or is maintaining a watching brief, on several matters relating to implementation. Subject to its priorities, the Establishment Board may wish to consider commissioning further advice from the Integrity Transition Programme on these.

Overall, we **recommend** the Establishment Board ensure that all implementation risks and opportunities for the Commission are identified, including matters outlined above in relation to the Code and also the issues below.

Implementation of the Incorporated Societies Act 2022

The Incorporated Societies Act 2022 was passed in April 2022 and will come into force in October 2023. The new Act is a significant modernisation of the legislation relating to incorporated societies and intends to make their governance functions more robust, including by:

- creating new duties for officers, which include acting in good faith and in the best interests of the society, complying with the new Act and the constitution, and exercising the care and diligence that a reasonable person would exercise in the circumstances;
- requiring that dispute resolution processes are included in the society's constitution and that these processes must be consistent with the rules of natural justice; and
- setting new rules defining when an officer has a conflict of interest and a duty to disclose conflicts.

All incorporated societies will need to re-register with the Registrar of Incorporated Societies by April 2026 with a constitution that is compliant. Societies must review their constitution and

make any necessary modifications. Societies needing few changes may decide to update, while others may see this as a good opportunity to start afresh.

Many organisations in the sport and recreation sector are incorporated societies and will be affected by these changes. Like the Code, it represents a significant regulatory change. There is an opportunity for adoption and implementation of the Code to be aligned with implementation of the incorporated societies changes given that both may require organisations to amend their constitutions. If alignment is not realised, it could pose a significant implementation risk for the Code.

Working with the Ministry of Education in relation to primary and secondary school sports

Stakeholders have raised the importance of the education system throughout the Integrity Transition Programme work to date, including a desire to understand how the Commission's work will impact on primary and secondary school sports. We also note that concerns were raised in the Māori engagement about rangatahi experiencing racism and a lack of voice for rangatahi in the system. These views align also with what we heard from Gymnastics New Zealand in February 2023, who highlighted the importance of age-appropriate policies and processes.

The Establishment Board may therefore wish to consider engaging with the Ministry of Education and other relevant bodies (e.g. School Sport New Zealand) to understand the scope for the Commission to support and lead integrity initiatives around sport and recreation in schools.

Human rights in sport and recreation

The IWG Report emphasised the importance of human rights, and we have maintained that emphasis in our work. However, there is a gap in terms of material which comprehensively and coherently outlines the relevance of human rights to sport and recreation, particularly in a New Zealand context.

As such, the Integrity Transition Programme has begun preparing a paper on the relevance of domestic and international human rights to sport and recreation. This may be useful to the Establishment Board as it develops the Code, or generally in designing operational procedures (e.g. in relation to the use of information-gathering powers). This may be a useful piece of work to continue, in consultation with the Human Rights Commission and other experts.

Employment status of elite athletes

The Establishment Board may wish to follow the case relating to the employment status of elite athletes. While not directly related to integrity as such, it could have significant implications for the Commission's scope and functions. Without speculating on the outcome of the case, any change in the employment status could affect the matters which the Commission would be able to investigate or consider given they will not have jurisdiction over employment matters.



International engagement opportunities

The Commission's statutory functions include an international component, including:

- to be a leader on integrity issues in sport and organised active recreation within government and to co-ordinate with relevant international bodies;
- to facilitate compliance by New Zealand with all international agreements and arrangements concerning doping in sport to which New Zealand is a party; and
- to consult, advise and assist 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.

The Integrity Transition Programme is compiling a calendar of international events which may be of interest to the Establishment Board and the Commission.

The Establishment Board may also wish to consider further engagement with equivalent bodies and other relevant organisations overseas.

Finances

Budget for the Integrity Transition Programme

A one-off allocation of \$4.8 million was approved for 2022/23 for "Lifting integrity across play, active recreation and sport". This is the budget for the ITC, Integrity Transition Programme, Māori Advisory Group and Establishment Board, and to fund the work required to establish and prepare for commencement of the Commission. This is managed through Sport NZ (using Sport NZ's payables systems) with all expenses approved by the Integrity Transition Programme Director.

In the period from June 2022, when the ITC was formed, to the end of March 2023, \$1.5 million of the 2022/23 funding allocation has been spent, predominantly on personnel and professional services.

Any balance of the \$4.8 million at 30 June 2023 will be carried forward to cover ongoing establishment activities and other integrity functions up until the commencement of the Commission in early 2024. Assuming a commencement date of 1 July 2024, we estimate that the appropriation will have been fully consumed in the transition period.

Operating budget developed for the Commission

The IWG report estimated the cost of a new standalone entity at between \$19.5 million and \$25 million per year. These cost estimates were included in the June 2022 Cabinet paper and noted by the Cabinet Social Wellbeing Committee (SWC-22-MIN-0096). The costs were redacted from the proactive release of the Cabinet paper to avoid prejudice to Budget 2023 decisions.

The Integrity Transition Programme worked with Martin Jenkins (who had prepared the cost estimates for the IWG) to update costings based on estimated staffing requirements for the proposed functions of the Commission. The updated budget model provided for 44 FTE (including the 24.55 current FTE in Drug Free Sport NZ), and total operating costs of \$14.3 million to \$16.6 million per year.

Operating costs of \$15 - \$18 million per year (including Drug Free Sport NZ costs) were included in the September 2022 Cabinet paper. Again, these were withheld from the proactive release of

the Cabinet paper due to Budget secrecy. The Cabinet minute noted that the Minister intended to report back to Cabinet on “options to minimise any new funding requirement in light of the constrained fiscal environment”, indicating that the government funding requirement included in that Cabinet paper was not acceptable.

The Integrity Transition Programme prepared a detailed budget model in preparation for making a budget bid, and to support planning the operations of the Commission.

Templates for the 2023 Budget Bid process were issued in November 2022, with bids due by mid-December. The total envelope for bids in relation to Sport and Recreation was \$10 million

In light of the envelope, the Integrity Transition Programme and Sport NZ reviewed and revised the detailed budget model, reducing the number of additional personnel to 10.5 FTE (with total FTE of 35.05 including Drug Free Sport NZ). The 2023 Budget Bid was submitted in December at \$10M pa, from 2023/24 to 2026/27 and outyears. This included a component for cost pressures of Drug Free Sport NZ’s current operations, which are currently covered by an allocation from the Covid Recovery Package for three years to June 2024.

The Integrity Transition Programme has also submitted a draft description and performance measures for the expected new appropriation to Manatū Taonga.

Budget decisions will be made public on 18 May 2023. Given current economic conditions, and the Cyclone Recovery efforts, we anticipate that the approved operating budget for the Commission will be less than was bid for. The Integrity Transition Programme team will brief the Establishment Board on the results of the Budget when they are announced.

Subject to Budget 2023 decisions, the Establishment Board may need to consider options about delayed phasing for some new functions, seeking cost-savings in the provision of complaint-handling and mediation services, consideration of efficiencies across existing Drug Free Sport NZ functions and proposed new functions of the Commission, and cost-effective approaches for promoting and raising awareness of the services of the new entity and of the Code(s).

The Establishment Board and/or the Commission may also need to work closely with Sport NZ (as the policy lead for the sector) and Manatū Taonga (as the monitoring agency) on future budget bids to ensure there is appropriate funding available. We also suggest that the Establishment Board work with both entities to agree on the best way in which to progress any future budget bids.

Summary of communications work and overall approach to brand

Communications and engagement strategy

The Integrity Transition Programme team developed a communications and engagement strategy, which sets out an overarching approach to communication and engagement activities to support key aspects of the work plan and set the Commission up for success. Specifically, the document outlines our communications context, principles and objectives, audience segmentation, approach and outcomes, as well as providing an overview of how the strategy will be given effect to and supported by the overall core narrative.

The strategy recognises the critical role that effective communication and engagement will play in achieving improved integrity outcomes, both within the lifespan of the programme and through the Commission itself

A key tool to support the Integrity Transition Programme's overall communications, and to underpin how we tell the story of the work of the Integrity Transition Programme, is the core narrative tool (see **Appendix Seven**). The core narrative forms the basis of the Integrity Transition Programme's overall messaging, and should be used in conjunction with other, more



tailored messaging. The Establishment Board may wish to revise and update this as it progresses its work.

A set of brand guidelines have been developed for the Programme. They set out the overall look and feel including logos, imagery, font, and icons.

Website development and maintenance

The Integrity Transition Programme website has been our primary way of making information publicly available,

hosting key content, and highlighting engagement opportunities to the sector and wider stakeholders.²¹ The website provides for people to subscribe to updates, with 54 subscribers so far. Another key channel has been Sport NZ's monthly sector updates (with more than 2,000 subscribers and other viewers of the online content). These have included content published on behalf of the Integrity Transition Programme, and promoting the opportunity to make a submission to Select Committee on the Bill.

As we move to the establishment phase and increased sector and public engagement, the website has recently been refreshed and will continue to be updated including:

- updated timeline on passage of the Bill;
- recording of the Minister's speech at first reading of the Bill;
- links to the Bill and how to make a submission to Select Committee;
- greater prominence on how people may share their views more broadly;
- upcoming consultation and engagement opportunities and hui;
- recording of the recent Webinar on the Code;
- the infographic displaying high level results from the GEMBA research; and
- updated FAQs resulting from the recent sector and Māori engagement.

References to the Integrity Transition Committee, including profiles, will be updated to the Establishment Board soon after 10 May 2023.

Both Drug Free Sport NZ and the Sport NZ integrity team have dedicated websites housing a substantial amount of assets and popular resources, which will continue to be of great value to the sector. Prior to commencement of the Commission and as part of the sector readiness plan, the Integrity Transition Programme website will require an overhaul including phased

²¹ <http://www.integritytransition.org.nz/>

rebranding of existing assets and resources including training modules, videos, infographics and guidance.

Future strategic communications and engagement

As noted above, in the build-up to the opening of the Commission, sector readiness will need to be a key focus. A refreshed communications and engagement strategy will help to prepare the sector including updated key messaging, information for sector organisations and guidance on adoption of the Code. This could give rise to a national campaign delivered through a range of channels, which could include the use of 'Champions' and/or national advertisements.

Development of a sector database and expanding existing engagement channels will be necessary communication assets for the Commission to ensure independence from Sport NZ channels.

Legal name of the entity

In October 2022, Cabinet agreed to the working title "Integrity Sport and Recreation New Zealand (ISRNZ)" for the new entity. Prior to the introduction of the legislation, we engaged with key stakeholders on the working title, namely Drug Free Sport NZ, Sport NZ, sector stakeholders via informal channels, and Manatū Taonga and the Public Service Commission.

While there was some support for the use of "Integrity Sport and Recreation New Zealand", the overall feedback supported and proposed several alternatives. We assessed alternatives against criteria, including:

- a name that was clear and unambiguous about the intent and purpose of the new entity, including referencing recreation;
- a name that reflected, and was complementary to, some of the existing naming conventions of other agencies in the system (such as HPSNZ, Sport NZ, and the New Zealand Olympic Committee);
- due to the international nature of the work, reference to New Zealand and/or Aotearoa;
- a name that avoided double ups with existing acronyms and/or had a particular social, cultural or religious meaning; and
- a name that was easy to say, memorable and lends itself to a simple acronym.

We recommended a slight adjustment from the working title to "Integrity Sport and Recreation Aotearoa". However, after further discussion with the Minister, we ultimately settled on the "Integrity Sport and Recreation Commission."

During our engagement, we had some feedback about greater use of te reo Māori in the name, such as introducing 'tākaro.' We sought advice from the Māori Advisory Group, and they recommended against this, in favour of a more defined process to determine an appropriate Māori name, and one less linked to a direct translation.

We anticipate that the Commission will ultimately become known by a trading name, in the same way that Sport NZ is. This name may ultimately be the same as the ingoa Māori, as is increasingly common for public sector entities in Aotearoa New Zealand. Likewise, we anticipate the Commission will need to use "New Zealand" in international contexts, e.g. "the New Zealand Integrity Sport and Recreation Commission."

Media monitoring, themes and insights

Throughout our work, officials have conducted media monitoring. Our initial focus was predominantly domestic media, but we subsequently expanded our focus to include major media outlets in the United Kingdom, Australia and Canada.²²

There have been a number of significant stories relating to sport integrity over the course of our work, including (but not limited to):

- the 8-year ban of New Zealand athlete Zane Robertson for anti-doping rule violations, including providing falsified records and testimony;
- a leaked announcement about the provisional suspension of Australian athlete Peter Bol, which was subsequently lifted after his secondary result did not align, and findings from overseas experts that the provisional result was incorrectly arrived at;
- Mohed Altrad was found guilty of corruption in relation to his company's sponsorship of the French national rugby team, and French authorities raiding the headquarters of the Rugby World Cup organising committee as part of a corruption investigation;
- the resignation of the entire board of Cricket Scotland after an independent investigation concluded that there was institutional racism in the sport;
- calls for a national inquiry into abuse in Canadian sport, notwithstanding the development of the establishment of the Office of the Sport Integrity Commissioner and the Universal Code of Conduct to Prevent and Address Maltreatment in Sport;
- an ABC investigation about the classification system for the Paralympic and allegations of widespread, intentional misclassification; and
- an independent investigation in the US found that emotional abuse and sexual misconduct had become systemic throughout the National Women's Soccer League and that the league had completely failed to address concerns.

Media monitoring over a sustained period has helped us gain insights into the recurrent themes and emerging trends around sport integrity. Insights drawn from the reporting period have been included in the media summaries provided to us for our meetings, and include:

- there will be ongoing scrutiny about whether the Commission has a positive impact – as the situation in Canada demonstrates, the establishment of a dedicated entity and promulgation of a code is not a “silver bullet” which will immediately prevent harm from occurring;
- we anticipate ongoing scrutiny in relation to the independence of the Integrity Transition Programme and the Commission, particularly in light of early coverage emphasising the Public Service Commission's concerns about Sport NZ's role in administering the legislation;

²² For example, the BBC, ABC and CBC.

- discrimination is, and will likely continue to be, a major concern within sport environments – almost every week there are stories published in relation to racism, sexism, ableism and/or discrimination against rainbow communities;
- major events attract significant interest and scrutiny in relation to integrity issues, including accusations of suspicious financial flows and “sportswashing”; and
- cases involving the use of prohibited substances attract a significant amount of attention, but there are emerging concerns about the efficacy of some testing methods and the work of anti-doping organisations.

We suggest the Integrity Transition Programme continue to undertake regular media monitoring and provide summaries to the Establishment Board, potentially with a greater emphasis on systematic intelligence-gathering and thematic analysis and monitoring a broader range of digital and broadcast media.

RELEASED BY SPORT NZ UNDER OUR COMMITMENT TO OPEN GOVERNMENT

Appendix One: Terms of Reference for the Sport and Recreation Integrity Transition Committee

SPORT AND RECREATION INTEGRITY STRUCTURAL REFORM

TERMS OF REFERENCE FOR THE SPORT AND RECREATION INTEGRITY TRANSITION COMMITTEE

Date: 16 June 2022

COMMITMENT TO TE TIRITI O WAITANGI

The **Sport and Recreation Integrity Transition Committee** (the Committee) is committed to upholding the mana of Te Tiriti o Waitangi / Treaty of Waitangi and the principles of Partnership, Protection and Participation. We are committed to partnership with tangata whenua and the protection of Māori culture and taonga. We believe a strong bi-cultural foundation is critical to our national identity and wellbeing.

INTRODUCTION

1. The Minister for Sport and Recreation (the Minister) and Sport New Zealand (Sport NZ), wish to progress the structural reform of existing sport and recreation integrity functions and institutional arrangements. This follows the receipt of the *Report of the Play, Active Recreation and Sport Integrity Working Group* (IWG Report).
2. As 'agreed in principle' by Cabinet [CAB-22-Min-0210 refers]:
 - 2.1. to the establishment of a new standalone integrity entity that, at a minimum, would undertake all functions currently performed by Drug Free Sport New Zealand (to be disestablished), and some or all integrity related functions currently undertaken by Sport New Zealand; and
 - 2.2. to the establishment of a **National Code of Sport Integrity (NCSI)**
3. To receive final Cabinet agreement, a significant amount of further work needs to be undertaken relating to the scope and scale of the new entity to ensure what is established is appropriate to the New Zealand environment. In particular, the role and design of the NCSI and the new entity's role in relation to enforcing the NCSI and potential management of an accreditation system. The NCSI would set minimum standards for the sector relating to all aspects of integrity and the mechanism for holding individuals and organisations to account when they fail to meet those standards.
4. The establishment of both a Disciplinary Panel and Athlete/Participants Commission proposed by the IWG, the management of complaints, and whether NZ becomes a signatory to the Macolin Convention will also be important design considerations in the transition stage.
5. The establishment of this Committee is supported by the Minister and reported to Cabinet [CAB-22-Min-0210 refers].

OBJECTIVE

6. This Terms of Reference (TOR) relates to the establishment of the Committee to:

- 6.1. Oversee the next phase of work required to establish a new Integrity entity, including further work to agree to the final scope and scale of the new entity to ensure it is appropriate for the New Zealand environment; and
 - 6.2. Recommend to the Minister, the optimum structural and legislative arrangements, including fully scoped and costed functions, of a new Integrity entity.
7. In doing so, the Committee must:
- 7.1. consider issues relating to representation, governance, accountability and regulatory powers of the new entity;
 - 7.2. have full regard to the recommendations within the IWG report subject to undertaking detailed design and scoping;
 - 7.3. ensure that relevant stakeholders have been appropriately consulted and have regard for the issues and concerns that have been raised throughout this phase and in earlier integrity related reports;
 - 7.4. acknowledge and have regard for the trust and confidence of stakeholders (including Sport and Recreation organisations, athletes/participants, officials, coaches, survivors of integrity breaches and sector volunteers) and the Treaty partner necessary for the successful implementation and long-term sustainability of the reforms; and
 - 7.5. ensure the recommendations are practical to implement and likely to achieve widespread buy-in from key stakeholders and the wider sport and recreation sector.
 - 7.6. ensure appropriate regulatory impact analysis is undertaken as required under the Treasury regulatory impact analysis guidance

DELIVERABLES

8. The Committee will deliver a report setting out its recommendations and rationale to the Minister no later than 16 September, which identifies:
 - 8.1. the optimum structural and legislative arrangements, including fully scoped and costed functions, of a new Integrity entity;
 - 8.2. the associated plans and timeframes for establishing a new Integrity entity;
 - 8.3. the purpose and design of a NCSI, including the new entity's role in relation to enforcing the NCSI and potential management of an accreditation system;
 - 8.4. the requirements of New Zealand becoming a signatory to the Macolin Convention and implications for the new Integrity entity; and
 - 8.5. such other matters in relation to its work programme as the Committee considers relevant.
9. This report and the underlying analysis will form the basis for a Cabinet paper, Regulatory Impact Statement, Budget Initiative, and related documentation required to seek Cabinet's approval to establish the new entity, including associated establishment arrangements and

to introduce new legislation. It will also support a national impact analysis in relation to New Zealand becoming a signatory to the Macolin Convention.

10. The Committee will provide monthly progress reports to the Sport NZ Board to provide assurances that the work of the Committee is progressing on time and within budget and for the early identification and/or escalation of risks and issues.

BACKGROUND

11. Integrity related issues have been on the rise within the sport and recreation sector over several years, appearing within both high-performance sport environments and at grass roots community sport and active recreation levels. In some instances, these have led to high profile investigations and reviews.
12. Sport NZ and High Performance Sport New Zealand (HPSNZ), have commissioned various reports in recent years focused, in whole or in part, on how the sector is dealing with the safety and wellbeing of its participants.
13. In 2018, Sport NZ undertook a public consultation on sport integrity, seeking the views of a wide range of organisations and individuals involved in the system across Aotearoa New Zealand. They sought views on themes that cut across multiple areas of sport integrity, namely:
 - 13.1. Member protection
 - 13.2. Integrity issues in children's sport
 - 13.3. Organisational culture, whistleblowing, and the institutional arrangements for sport integrity
 - 13.4. Anti-doping
 - 13.5. Protecting against corruption
 - 13.6. Protecting against match-fixing
14. Sport NZ then released an analysis and summary of the submissions received. They also released 22 recommendations designed to address key issues identified through the review. The evidence-based recommendations, in turn, contained a series of proposed interventions and improvements for the institutions and mechanisms that already exist in the Sector, alongside new initiatives. One of those new initiatives was to investigate whether a sports complaints and mediation service should be established.
15. This led to the commissioning of Phillipa Muir's and John Rooney's "*Feasibility Study for a Complaints Management and/or Dispute Resolution Service for NZ Sport*", whose report was issued in September 2020. Ms Muir and Mr Rooney recommended the creation of a government-funded Sport and Recreation Mediation Service and the appointment of a Sports Ombudsman. In its concluding section, the report also recommended that considering the ongoing member protection /welfare claims by athletes, a working group be established to consider, amongst other things, a government-funded sport integrity unit that "would develop policies, provide education/resources, oversee the Sports Ombudsman and the Sport and Recreation Mediation Service (SRMS) and would be aligned with international human rights and integrity standards in sport."

16. In February 2021, Sport NZ launched the independent **Sport and Recreation Complaints and Mediation Service** (SRCMS). The service is operated by Immediation New Zealand Limited, which has been contracted by Sport NZ to run the service independent of any sporting bodies, clubs and organisations. Its purpose is to ensure those with issues related to sport and recreation in Aotearoa New Zealand have a place to air their complaints and have them resolved fairly. The service is free at the point of delivery and confidential.
17. In December 2020, Sport NZ established the **Sport and Recreation Integrity Working Group** (IWG). As expressly outlined in the terms of reference, the purpose of the IWG was to *“evaluate a range of options and recommend to the Sport NZ Board and Minister what is considered the most appropriate institutional arrangement(s)/structure(s) to manage all the various integrity elements across the system and accommodate the 22 recommendations from the Integrity Review once implemented. This will require an assessment of the current institutional arrangements involving Drug Free Sport NZ, the Sports Tribunal, the integrity function within Sport NZ and any independent services funded by Sport NZ such as the Sport and Recreation Mediation Service”*.
18. The IWG began its work by undertaking a discovery phase during which it met with a wide range of key stakeholders to gain a deeper understanding of the integrity issues facing the play, active recreation and sport system and the current approach to addressing these issues. A list of the organisations and individuals the IWG consulted with is appended to the IWG's report.
19. Following the initial round of consultation, the IWG began developing a longlist of possible options for further analysis. Retaining the status quo arrangements was quickly discounted as a viable option (along with other long-listed options), which left the IWG with two primary options to be more thoroughly assessed. These two options were:
- 19.1. **Option A** – an evolutionary model. Option A recognises that change is necessary but builds on and enhances the existing system. The key aspects of this option are expanding the remit of DFSNZ to include competition manipulation, and a new integrity appropriation to enable Sport NZ to build a specialised integrity unit, headed by a Director of Integrity, who would have statutory independence for exercising the powers and functions of the integrity regulator.
- 19.2. **Option B** – a standalone integrity organisation. This option represents significant change and would see a new entity created that operated independently of Sport NZ focused solely on integrity. DFSNZ, Sport NZ's integrity function and the SRCMS would all be folded into this new entity. It is also recommended that a Disciplinary Panel and Participant/Athlete Commission be established. The new entity would be athlete and participant-centred and would focus on education and harm prevention, while also offering a comprehensive dispute resolution service, including the continuation of Māori dispute resolution practices implemented by the SRCMS.
20. Both options are predicated on the introduction of a **National Code of Sport Integrity** (NCSI), which would set minimum standards for the sector relating to all aspects of integrity and would be the cornerstone of the integrity system. Both options also include New Zealand becoming a signatory to the **Council of Europe Convention on the Manipulation of Sports Competition** (the Macolin Convention).

21. The IWG engaged consultancy firm, MartinJenkins, to undertake an independent feasibility assessment of the options.
22. The full feasibility assessment is appended to the IWG's report. The assessment concluded that both Option A and B are feasible and that both options would require legislative change to be implemented. The assessment also recommended that, for either option, a transition unit be established to plan the transition, undertake detailed design of scope and scale, support policy decisions and legislative change and lead the development and stakeholder consultation on the NCSI. A separate transition unit would ensure the operational delivery of Sport NZ's existing integrity functions is not impacted by transition activities and that the design of the new arrangements is independent of Sport NZ. The IWG recommends that during this period, participants and survivors of integrity breaches are placed at the core of design work and that there is strong Māori representation.
23. The IWG concludes in its report that **Option B** should be adopted. The report notes that the IWG members were unanimous in their support for Option B. Similarly, there was widespread support for Option B among sector stakeholders consulted with, including DFSNZ and the Sport Tribunal.
24. The IWG's report described Option B as a far simpler, more accessible system for all levels of the sector, from community participants through to elite athletes. Further, if established correctly, the IWG believes this system could be truly participant centred and therefore trusted and would provide actual and perceived independence from Sport NZ and HPSNZ, which was identified as one of the key failings of the current system. The IWG believes the additional independence that Option B would provide is key to achieving widespread sector buy-in to the new arrangements.
25. The IWG also recommended that, should Option B be adopted, a Transition Board be established to ensure the project continues effectively while further policy analysis is undertaken and the legislative changes necessary to establish the new entity are made.
26. It is also recommended that the Ministry of Education and Secondary School Sport New Zealand be engaged to determine how best to incorporate school sport into the new system.
27. The Minister and the Sport NZ Board are supportive of the IWG Report recommendations but notes that a significant amount of further work needs to be done on the scope and scale of the new entity to ensure what is established is appropriate to the New Zealand environment.

COMMITTEE ESTABLISHMENT

28. This is an independent Committee established by the Sport NZ Board, in consultation with the Minister. It is comprised of relevant experts, to oversee the next phase of work and to report to the Minister and Sport NZ Board.
29. This Committee is distinct from other Sport NZ Board Committee's, in that it is being asked to operate with a greater level of independence from the Sport NZ Board, with some direct reporting requirements to the Minister.

30. Committee members collectively require a significant level of knowledge and experience across public sector, machinery of Government and sport and recreation technical integrity experience. Māori and athlete representation are also important.
31. The Committee will oversee the next phase of transition to a new Integrity entity. This involves planning the transition and eventual establishment of a new Integrity entity, overseeing detailed design and policy work (including design of the legislative change required) and determining the role and design of a NCSI. There are significant questions regarding the scope and scale of the proposed functions of the new Integrity entity that require further analysis. These include the design of the NCSI, any further complaints and dispute resolution functions as well as access to support services, and the potential for a Disciplinary Panel and Athletes/Participants Commission or similar mechanisms.
32. In undertaking this work, the Committee will ensure that participants and survivors of integrity breaches are placed at the core of the design work and that there is a strong Māori representation and bicultural focus.
33. The Committee will be complemented by a separate Māori Advisory Group that will ensure the transition and design phase is undertaken in a bi-cultural manner.

Resourcing and Support

34. Sport NZ will support, and assist the Committee in the following manner:
- 34.1. **Integrity Transition Project Team (the Transition Team):** working independently of Sport NZ management, the Transition Team will report directly to the Committee. The Committee will appoint an Integrity Transition Director to provide leadership of the Transition Team. The Transition Team will have the primary responsibility to support the Committee in fulfilling their responsibilities;
- 34.2. **Sport NZ Policy Team:** to work collaboratively with the Transition Team and the Committee regarding the policy design (including by providing policy and regulatory impact analysis) and leading legislative change work and will support Ministerial reporting. The Policy Team will also develop all Cabinet and related papers and facilitate responses to any related OIA requests and Parliamentary Questions;
- 34.3. **Sport NZ Corporate:** provision of corporate support services including, office and meeting facilities, financial management, human resources and information management technology and support; and
- 34.4. **Funding:** the costs of the Committee, Transition Project Team and all associated costs will be funded by Sport NZ. This is through Budget 2022 which includes one-off Transition funding of \$4.8 million.

Committee Role and Responsibilities

35. In undertaking its role, the Committee members must:
- 35.1. have regard to the IWG report and earlier integrity related reviews;
- 35.2. perform their role in the spirit of seeking to identify an approach that is best for the needs and interests of New Zealand and all New Zealanders, and which clearly

- articulates the weighting of priorities, the trade-offs made and the supporting rationale for such choices;
- 35.3. recognise and take into account any particular needs and circumstances of individual sport and recreation sector organisations and not undermine work already undertaken by those organisations in establishing well-functioning integrity systems;
 - 35.4. seek external technical expertise to inform its processes and advice;
 - 35.5. seek to protect and promote iwi/Māori rights and interests and apply the spirit of working in partnership;
 - 35.6. engage with stakeholders to inform its advice, including participants and survivors of integrity breaches;
 - 35.7. ensure there is an even-handed, open-minded, and evidence-based approach to any problem definition as well as to developing and assessing possible options and solutions; and
 - 35.8. ensure frequent, clear and transparent communication (including regarding its programme of work) to Sport NZ to enable them to provide necessary support.
36. These roles and responsibilities will be subject to whatever protocols the Chairperson may require ensuring orderly sequencing and flow of information and achievement of the agreed work programme.
37. Members will bring their unique insights and perspectives into the work and work constructively together. It is the responsibility of all Committee members to:
- 37.1. abide by any confidentiality obligations already binding on them, along with the standards of conduct as required under the ['Code of Conduct for Crown Entity Board Members'](#), promulgated by Te Kawa Mataaho, Public Service Commission;
 - 37.2. declare any perceived or real conflict of interests, as described in Appendix 1; and
 - 37.3. follow Sport NZ policies and procedures as they relate to the Committee and ensure the actions of the Transition Team are operating within Sport NZ policies and procedures.

Membership

38. The membership of the Committee will be determined by the Sport NZ Board in consultation with the Minister, and is intended to achieve the following composition:
- 38.1. An independent Chairperson;
 - 38.2. Up to 6 members that collectively, along with the Chairperson, bring the following skills and expertise: public sector, machinery of Government & sport & recreation integrity matters. Māori and athlete representation; and
 - 38.3. Membership must also represent gender equity with a minimum of 40% female representation.

39. Further members may be added to the group as and when required (including on the recommendation of the Chairperson). Such further members will be selected by the Sport NZ Board, in consultation with the Minister and Chairperson of the Committee.
40. Members must act in their personal capacity and not on behalf of their organisations or their sector interests.
41. Individual members have responsibility to:
- 41.1. work collaboratively to ensure the best overall option for New Zealand is identified in a robust and objective manner;
 - 41.2. work together to ensure any major barriers to successful options development and analysis are removed;
 - 41.3. provide the leadership necessary to achieve the development of a coherent and cohesive set of recommendations to the Minister that has broad support from all the critical stakeholders; and
 - 41.4. Iwi/Māori participants are not there to represent their individual iwi/hapu interest but to, where possible, represent a Treaty partner perspective on the options discussed.

Committee Chairperson

42. A chairperson will be appointed by the Sport NZ Board, in consultation with the Minister.
43. The Chairperson will be responsible for:
- 43.1. providing overall leadership to ensure the Committee functions effectively and that all interests and perspectives are being properly considered;
 - 43.2. ensuring that the Sport NZ Board and Minister is kept informed of progress and that any impediments to progress are being appropriately raised and resolved;
 - 43.3. chair the Committee meetings, including finalising the calendar and agendas;
 - 43.4. reviewing the membership composition to ensure the required perspectives and expertise is represented on the Committee;
 - 43.5. overseeing the work of the Transition Team and hold the Transition Director accountable for the performance of the Transition Team;
 - 43.6. requesting expert advice to support the work being undertaken by the Committee and Transition Team (such advisors will be engaged by the Transition Team, and funded within the allocated transition budget);
 - 43.7. supporting consultation and other key stakeholder engagements as deemed necessary; and
 - 43.8. reporting on progress, and seeking guidance, particularly on matters of broader policy, strategy or system implications.

Appendix 1: Standards of Conduct – Confidentiality and Conflicts of Interest

All Committee members are expected to adhere to the following principles:

Conflicts of interest

Members must perform their functions in good faith, honestly and impartially, and avoid situations that might compromise their integrity or otherwise lead to conflicts of interest, in each case in a way that could undermine trust and confidence in the work (or findings and recommendations) of the Committee. Proper observation of these principles will protect the Committee and its members and will ensure that it retains public confidence.

A conflict of interest will occur when a member's private interest interferes, or appears to interfere, with an issue that faces the Committee. A conflict of interest will also occur when there is a possibility that a benefit may apply to a sector, industry, or organisation that they represent. A conflict of interest may be real or perceived.

Any situation that involves or may be expected to involve any real or perceived conflict of interest must be declared immediately to the Chairperson as soon as the conflict arises (including by using the form in Appendix 2).

At the discretion of Chairperson, members may participate in discussions about issues in which they have declared a conflict of interest.

Confidentiality

For the Committee to operate effectively, members must maintain the confidence of the Committee, including maintaining confidentiality of matters discussed (including views expressed by other members) at meetings, and any information or documents provided to the Committee. It is important that all members of the Committee feel confident to engage in full and frank discussion, free of a concern that their views may be shared or disclosed without their approval. Accordingly, no member shall make any public statement or comment (including to any stakeholder or third party) that identifies any view or position expressed by any individual member of the Committee.

Subject to the above paragraph, it is acknowledged that the Committee will operate transparently in relation to positions and recommendations of the Committee, will be seeking the views of stakeholders and third parties and will provide regular updates to interested parties. No member shall be permitted to otherwise make public statements or comment about the work or deliberations of the Committee (or any proposed recommendations) without the prior approval of the Chairperson, and the Chairperson may consult with whomever he or she considers appropriate before providing (or withholding) that approval. Where information is already in the public domain (through no fault of a member), the confidentiality requirements do not apply to that information.

Privacy Act 1993

Members must always comply with the requirements of the Privacy Act 1993 and keep information about identifiable individuals confidential.

Official Information Act 1982

All information provided to the Committee will be treated as official information under the Official Information Act 1982 and, subject to the requirements of that Act, may be released to the public if there are no grounds for withholding it.

If information is required to be released under the Official Information Act 1982 it will only be released to the extent necessary.

If Sport NZ is considering releasing information under the Official Information Act 1982, Sport NZ will consult with the person who provided the information before making a final decision on release.

Appendix 2: Conflict of Interest Declaration Form

Name:		
Declared Interests:	<i>[please list your existing Directorships and other related interests that can be associated with the sport and recreation sector &/or the activities of the Committee and wider Transition Team]</i>	
	•	
Potential Conflicts:	<i>[please list any associations that could create a perceived or actual conflict of interest if not appropriately managed]</i>	<i>[please describe how each potential conflict will be managed, as agreed with the Chairperson or wider Committee (as it relates to the Chairperson)]</i>
	•	•
	•	•
	•	•
	•	•

ð I declare that there are no conflicts of interest that could compromise my objectivity, judgement, integrity or ability to perform the responsibilities of the Committee; OR

ð I declare that the potential conflicts identified will be managed as agreed above, so as not to compromise my objectivity, judgement, integrity or ability to perform the responsibilities of the Committee.

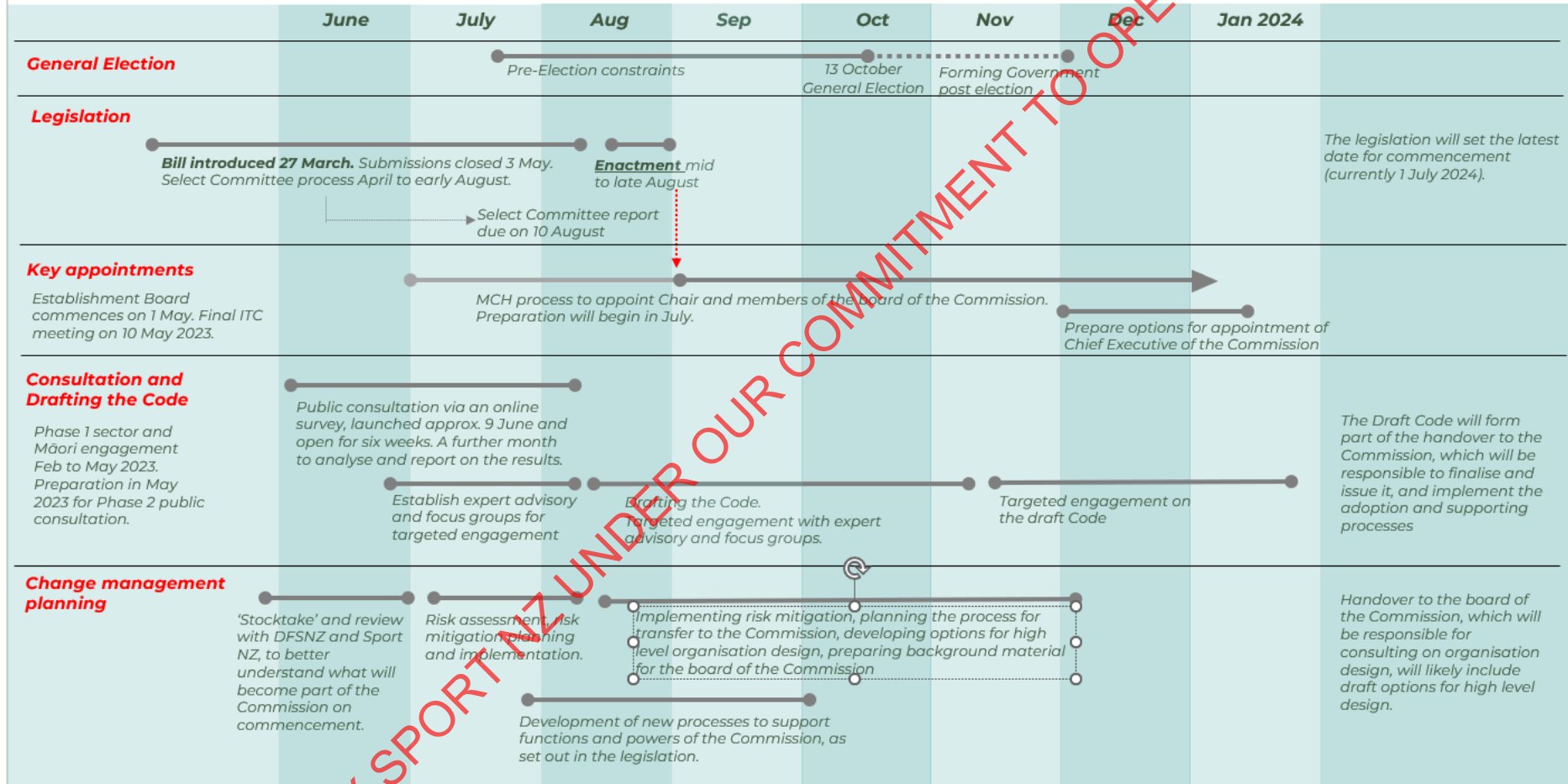
Signature

___/___/___
Date

RELEASED BY SPORT NZ UNDER OUR COMMITMENT TO OPEN GOVERNMENT

Appendix Two: High level work programme summary

High level work programme



RELEASED BY SPORT NZ UNDER OUR COMMITMENT TO OPEN GOVERNMENT

Appendix Three: Consultation during policy approvals and legislative development

The following organisations and entities had the opportunity to comment on the draft Cabinet papers and the Integrity Sport and Recreation Bill.

Type of organisation/entity	Organisation/entity names
Government departments	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 Public Service Commission Te Arawhiti - Office for Māori-Crown Relations Ministry of Social Development; Crown Law Office New Zealand Customs Service The Treasury Serious Fraud Office
Crown entities	Drug Free Sport New Zealand Human Rights Commission Office of the Privacy Commissioner
Officers of Parliament	Office of the Ombudsman
Other groups or entities	Sports Tribunal Treaty Provisions Oversight Group Legislation Design and Advisory Committee

Te Puni Kōkiri and the Office of the Auditor-General were informed of the papers.

Appendix Four: Recommended approach to the disciplinary process

1. The proposed disciplinary panel process would follow these basic steps:

1) Complaint received

- i. A complaint is made to the relevant organisation or directly to the Commission.²³

2) Initial evaluation

- ii. The receiver of the complaint undertakes initial evaluation to determine the appropriate next steps (e.g. no further action, referral or early resolution).

3) Triage/investigation

- iii. The complaint is triaged to determine seriousness and, where necessary, an investigation is undertaken by the organisation or the Commission (the investigating body).²⁴

4) Outcome

- iv. The investigating body reaches a view on whether a breach has occurred and what an appropriate sanction would be.
- v. The investigating body informs the person whose behaviour is alleged to have breached the code (the accused participant) and the complainant of its view and the next steps.
- vi. If the accused participant accepts the outcome, the organisation implements the sanction and the matter is closed.
- vii. If the accused participant disputes the outcome, a disciplinary process is facilitated by either the organisation or the Commission.

5) Resolution

- viii. A disciplinary panel conducts hearing to consider evidence presented by the investigating body and the accused participant.
- ix. Disciplinary panel decides whose evidence to accept and reaches a determination on the case (i.e. whether the breach is substantiated and, if so, whether the sanction is appropriate).

6) Appeal

- x. A party to the disciplinary proceeding may appeal to the Sports Tribunal.

²³ It will be up to the Commission to establish the mechanism by which complaints will be made. It is likely, in the first instance, that the Commission will continue to contract with the Sport and Recreation Complaints and Mediation Service for this purpose.

²⁴ The Commission could support an investigation or, in essence, take over the investigation from the organisation.

Appendix Five: Māori Advisory Group biographies



Hera Clarke

Hera Clarke (Te Aupōuri, Ngāpuhi, Ngāti Porou) is head of Aotearoa Māori Netball, and has an extensive background as a social worker and counsellor. She has experience in senior management with Ministry of Social Development, Oranga Tamariki and its predecessor Child Youth and Family. Hera has led family and sexual violence programmes and been a social work lecturer at Unitech teaching family systems and te Tiriti o Waitangi. She has held senior roles in the Anglican Church.



Nicole Dryden

Nicole (Waikato, Ngai Te Rangi, Ngati Awa) has extensive experience in sport and recreation as a player, coach, organiser, and in sports development including a distinguished netball career. She currently serves as a member of Te Kōpuka nā Te Awa Tupua – the group responsible for developing and monitoring the strategy to advance the health and wellbeing of Te Awa Tupua.



Andrew Tara

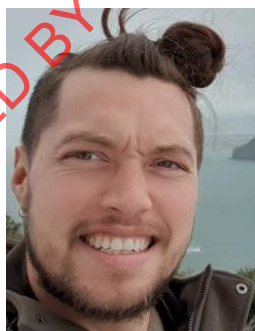
Andrew (Kuki Airani) is the Kaihautū Māori at New Zealand Cricket, and previously worked in development roles at Aktive and Sport Auckland.



Mita Graham

Mita (Waikato) is the Kaituruki (Development Manager) at Te Huinga Tākaro o Aotearoa (the National Māori Sport Authority). Te Huinga Tākaro brings together 12 Māori national sporting organisations (NSOs) and their collective aspirations for the development and survival of Māori sports.

Mita has a distinguished touch career as both player and coach. He has been a Waikato Touch representative since 15 and is captain of the Touch Blacks.



Kuruho Wereta

Kuruho (Ngāti Raukawa ki te tonga, Te Ati Awa Ngāti Toa Rangatira) is the Kaiarahi Tikanga Māori at Recreation Aotearoa and member of Te Kahui Kura Māori. Prior to this he worked for a decade as a Ranger for both the Department of Conservation and the Regional Parks team in Auckland Council. His role in Recreation Aotearoa is to support and guide the team, members, and partners to fulfil the aspirations set out by the Whai Oranga Strategy.

Appendix Six: Example outline of a Code of Integrity for Sport and Recreation

Introduction and application

A section along these lines could provide a preamble and introduce key concepts and the underlying intent/effect of the Code and the definition of integrity. For example:

1. The signatories to this Code recognise the importance of integrity to ensuring the safety and wellbeing of participants in sport and active recreation.
2. The integrity of the New Zealand play, active recreation and sport system encompasses personal, organisational and competition integrity, and ensures the safety, security, wellbeing, and inclusion of all participants in a manner consistent with internationally recognised human rights and the principles of te Tiriti o Waitangi. It rejects competition manipulation, discrimination, bullying, harassment, cheating, violence, abuse, racism, corruption, doping and fraud or any other criminal conduct, and promotes fairness, transparency, accountability, and a right for participants to be heard.
3. The Code recognises that every organisation and participant in sport and active recreation has a role to play to safeguard and promote integrity.
4. The Code also recognises that the sport and active recreation sector is broad and that measures to address integrity issues must be tailored to meet the particular circumstances of individual organisations and activities. It does not require uniformity in implementation or changes to the fundamental principles or laws of an activity.

The Code could also set out the process for adoption and who the Code applies to, including recognition by The Commission that adoption has occurred, the involvement of participants in the adoption process, and the need to ensure that participants give informed consent in relation to the Code as part of terms and conditions. For example:

5. Any sport and active recreation organisation may adopt the Code.
6. The Code applies to all participants in a sport or recreation activity where its governing body has adopted the Code.
7. Organisations who wish to adopt the Code must notify The Commission of their intention to adopt and the date on which adoption will take effect.
8. Before adopting the Code, organisations must provide a reasonable opportunity for participants in their activity to comment.
9. The Commission will maintain and publish a list of all organisations which have adopted the Code.
10. Organisations who adopt the Code must ensure that participants within the activity or activities for which they have responsibility are aware of the Code and consent to its application as a condition of participation in that activity.

Guiding principles of integrity in sport and active recreation

A principles section would set out approximately seven key overarching concepts which inform the operative provisions of the Code. For example:

11. The principles of integrity in sport and active recreation in Aotearoa New Zealand are:
 - **Manaakitanga** - All participants in sport and active recreation are entitled to be treated with care, kindness, respect and dignity.

- **Equitable** – Active steps are taken to ensure that sport and active recreation are free from all forms of discrimination, racism and inequitable treatment.
- **Honest** – The highest ethical standards are upheld and there is zero tolerance for corruption, competition manipulation, match-fixing, bribery, fraud, etc.
- **Fair** – Policies and procedures must ensure that all persons are treated fairly and comply with the rules of natural justice.
- **Honour** – Te Tiriti o Waitangi and human rights in the context of sport and active recreation are understood and upheld.
- **Clean Sport** – There is no tolerance for doping in sport and people abide by the World Anti-Doping Code and Sports Anti-Doping Rules.
- **Whānaungatanga** – Sport and active recreation is a place to build healthy relationships through shared experiences, working together, and creating environments where people feel they belong.
- **Open** – All participants in sport and active recreation have the right to be heard on decisions or processes which affect them.

12. These principles are given effect through the Code and the actions of all participants in sport and active recreation.

Te Tiriti o Waitangi

In addition to direct incorporation of te Tiriti o Waitangi in the operative provisions and/or reference in the principles, the Code could set out in more detail on what te Tiriti o Waitangi means in the context of sport and active recreation and/or that the Code should be read and implemented in a manner which gives effect to te Tiriti o Waitangi. This would need to be carefully and clearly expressed. For example:

High-level recognition of te Tiriti o Waitangi	Hybrid (reference to relevant operative provisions)	More detailed commitments / obligations
<ul style="list-style-type: none"> • Integrity Sport and Recreation Aotearoa, and the signatories to this Code, recognise te Tiriti o Waitangi as the founding constitutional document of Aotearoa New Zealand. 	<ul style="list-style-type: none"> • In order to recognise and respect te Tiriti o Waitangi, and Māori rights and interests in sport and active recreation, the Code provides that: <ul style="list-style-type: none"> • Honouring te Tiriti o Waitangi is a guiding principle for integrity in sport and active recreation; • Organisations must have culturally appropriate dispute resolution processes; 	<ul style="list-style-type: none"> • The Commission and signatories to this Code recognise te Tiriti o Waitangi as the founding constitutional document of Aotearoa New Zealand and commit to: <ol style="list-style-type: none"> a. Establishing effective mechanisms to work in partnership with mana whenua; b. Ensuring Māori are actively involved in governance throughout the sport and active recreation

	<ul style="list-style-type: none"> The Commission's independent complaints and mediation services will include culturally appropriate services; 	<p>sector;</p> <p>c. Actively protecting the rights and interests of Māori to create an equitable experience for Māori participants and whānau in sport and active recreation.</p>
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Rights of and obligations of participants

In addition to direct incorporation of rights, the Code could set out relevant domestic and international human rights standards which are relevant in the context of sport and active recreation. For example:

High-level recognition of relevant human rights	High-level statement on organisations' human rights obligations
<ul style="list-style-type: none"> The Code seeks to recognise and apply internationally recognised human rights – understood, at a minimum, as: <ol style="list-style-type: none"> right to life and security of the person; the right to participate in sport and recreation on an equal basis the right to be free from discrimination; the right to justice, including access to justice and the right to be heard; freedom of expression; and freedom of assembly and association, including the right to join a trade union. 	<ul style="list-style-type: none"> In line with the UN Guiding Principles on Business and Human Rights, the Code requires all signatory organisations to: <ol style="list-style-type: none"> avoid causing or contributing to adverse human rights impacts through their own activities, and address such impacts when they occur; and seek to prevent or mitigate adverse human rights impacts that are directly linked to their operations, products or services by their business relationships, even if they have not contributed to those impacts.

13. The provisions of the Code should be interpreted and applied in a manner consistent with these rights and obligations.

Regardless, a rights section could articulate the fundamental rights of all participants in sport and active recreation, which may not be interfered with and/or which must be respected by fellow participants and relevant organisations. For example:

14. Everybody has a right to participate in sport and active recreation free from violence, abuse, doping, discrimination, racism, bullying, harassment, corruption, fraud and any criminal conduct.

15. Particular care must be taken to ensure that children and young people are able to participate in a safe environment free from abuse and neglect.

16. Any participant whose rights are breached must have access to an effective remedy, including by making a complaint at any time in relation to a breach of this Code.

17. No participant may be victimised, retaliated against, or treated less favourably by virtue of

their making a complaint.

The Code could provide a high-level, global statement about participants' obligations to observe and respect these rights.

18. All participants in sport and recreation who are bound by this Code have an obligation to respect and uphold the rights of their fellow participants.

Responsibilities of/minimum standards for sport and active recreation organisations

The Code could place specific obligations on organisations to take steps in relation to integrity. Again, these could be expressed at a high level to allow flexibility in implementation, though some areas might also be subject to additional detail and requirements (e.g. around complaints). For example:

19. Organisations who adopt this Code commit to upholding the rights enumerated in this Code, and to take all reasonable steps to prevent threats to their full and universal realisation.
20. Organisations have a responsibility to respect the rights of participants and to promote integrity in their sport and active recreation activity.
21. Organisations have a duty in the first instance to identify, respond to, and address threats to integrity in their sport and recreation activity.
22. Organisations must have in place fair and effective systems for preventing, identifying, addressing and remedying threats to integrity. This includes, but is not limited to:
 - implementing requirements in the Code in relation to complaints, investigations, dispute resolution, and remedies;
 - developing and implementing an appropriate child safeguarding policy;
 - ensuring that participants have an active role to play in the governance of their activity; and
 - reporting suspected or proven breaches of the Code to The Commission.

The Code could provide further detail on the respective rights, roles and responsibilities of participants and organisations in relation to matters such as complaints or child safeguarding. At minimum, it could set out the need for such policies, or start to signal the content. For example:

Topic	High-level requirement	Principles-based requirement	Prescriptive obligation(s)
Complaints and mediation	<ul style="list-style-type: none"> • Organisations must establish policies and procedures for: <ol style="list-style-type: none"> a. effective complaints and investigations mechanisms for participants to access, including options for 	<ul style="list-style-type: none"> • Organisations must put in place complaints and investigation procedures which are: <ol style="list-style-type: none"> a. accessible; b. independent; c. fair; d. trauma-informed; e. culturally appropriate; f. age appropriate; 	<ul style="list-style-type: none"> • Organisations must put in place a mechanism to ensure that a complaint: <ol style="list-style-type: none"> a. can be made in writing or verbally; b. may be submitted anonymously; c. is evaluated by an independent party; d. will be assessed

	independent complaint resolution;	g. timely; and h. compliant with natural justice.	within 20 working days; e. must be resolved as soon as possible, and the outcome communicated in writing to all parties.
Child safeguarding	a. child safeguarding; and	<ul style="list-style-type: none"> • Organisations must put in place a child safeguarding policy which: <ul style="list-style-type: none"> a. sets standards to protect children and young people, staff, volunteers and contractors; and b. creates a safe environment and that all staff know what to do if there are concerns about a child or young person. 	<ul style="list-style-type: none"> • Organisations must put in place child safeguarding policy which: <ul style="list-style-type: none"> a. sets standards to protect children and young people; b. contains procedures for staff, volunteers and contractors to guide them in identifying and reporting child abuse and neglect; c. creates a mandatory requirement for reporting any concern about the safety of a child or young person to a Child Safeguarding Rep (CSR); d. appoints CSRs and sets out their role and responsibilities; and e. provides details of the other procedures in place that are to be followed by all staff, volunteers and contractors at all times.

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The Code could also cross-refer to sports organisations' responsibilities under the Sports Anti-Doping Rules. However, as the Rules contain the substantive obligations, this is likely to be very high-level (if required at all).

23. Sporting organisations must also have relevant procedures in place to comply with the Sports Anti-Doping Rules.

The Code may establish some form of reporting/notification requirement, whether on a case-by-case basis or as part of a regular reporting system, for example:

High-level requirement to report	Requirement to register	Requirement to report serious incident
<ul style="list-style-type: none"> Organisations must take all reasonable steps to ensure that all integrity issues which come to their knowledge are reported to The Commission. 	<ul style="list-style-type: none"> Organisations must establish and maintain a register which: <ul style="list-style-type: none"> complaints and disclosures received by the organisation relating to integrity; assesses the severity of the complaint/disclosure indicates who within the organisation is responsible for addressing the issue; identifies the actions which have been taken in response; and specifies the timeframes in which actions have been, or are to be, taken. Organisations will provide the register to IRSNZ every six months, or on request. 	<ul style="list-style-type: none"> Organisations must, as soon as reasonably practicable, report a serious integrity incident to The Commission. A serious integrity incident includes allegations relating to: <ol style="list-style-type: none"> an unlawful or irregular use of public funds; serious to the health and safety of any person, physical or sexual violence; abuse, neglect or risk of harm to a child or young person; and racism or discrimination.

Role of the Integrity Sport and Recreation Commission

The Code could also cover what the Commission will do to support organisations and/or its own investigative processes. For example:

24. The Commission will issue model standards to assist organisations in implementing their responsibilities under the Code.

25. The Commission will provide an independent, accessible mechanism through which participants may raise a complaint or disclose concerns relating to integrity in sport and active recreation.

26. Participants may raise a complaint directly with the Commission and/or appeal a decision of an organisation to the Commission.
27. Wherever possible, the Commission will seek to facilitate mediation to resolve issues concerned.
28. The Commission may investigate an alleged or suspected breach of the Code on receipt of a complaint, referral from an organisation, or on its own initiative.
29. Organisations and participants have an obligation to cooperate in good faith with any investigation into an alleged breach of the Code.
30. Failure to cooperate in good faith with an investigation, without a reasonable excuse, may be treated as a breach of the Code.

Remedies

The Code could detail consequences of a breach where disputes are not mediated or resolved, including detail on the disciplinary panel system and what remedies and sanctions are available. For example:

31. Where an alleged breach of this Code has occurred, organisations have the primary responsibility to ensure that it is remedied, including through an appropriate, independent disciplinary process.
32. The Commission will establish a disciplinary panel to assist in cases where:
 - the matter has not been successfully resolved, mediated or determined by the organisation, The Commission or a third party;
 - an organisation does not have the capacity to provide an independent, robust disciplinary process; or
 - the parties agreed it is in the interests of justice that an independent hearing occur.
33. The types of remedies a disciplinary panel may impose include:
 - declaration of fact / official finding of wrongdoing;
 - an apology;
 - suspension or ban from participation in the relevant organised sport or active recreation activity;
 - education or training;
 - financial compensation to a participant;
34. Any remedy imposed must be proportionate to the seriousness of the breach of the integrity code.

The Code could also set out the relationship with the Sports Tribunal, namely its role in appeals, for example:

35. Decisions of a disciplinary panel, whether established by the Commission or an organisation, may be appealed to the Sports Tribunal.
36. The Rules of the Sports Tribunal set out the grounds for an appeal.

Appendix Seven: Core narrative outline

Integrity Transition Programme

Core Narrative (November 2022) - a summary of the journey so far

Creating safer and fairer sport and recreation experiences through a strengthened integrity system.

There is work to do to lift the overall understanding and standard of integrity in sport and recreation

- Integrity issues, such as bullying, unfair treatment, discrimination, cheating and abuse are serious and detrimental to those impacted. This is just as real for participants in active recreation and sport.
- In recent years, there have been high-profile examples of integrity issues across a number of sports (including for high performance environments including football, hockey, rugby, cycling and gymnastics, which led to a series of reviews into overall athlete and participant treatment and well-being.
- An example was the 2021 Independent Review into Gymnastics New Zealand which found integrity issues relating to athlete wellbeing and child safeguarding at many levels of the sport. Numerous complaints (all from women, most of whom were minors when the complaint arose) were referred to Sport New Zealand's interim complaints mechanism (prior to establishment of the SRCMS) and resulted in several investigations.
- There are examples of sports undertaking their own independent reviews, such as NZ Rugby's 2022 review into women's rugby. Key themes this review identified included gaps in athlete health and well-being support, and significant communication issues between coaches, managers and players.
- Integrity issues are not just a high-performance problem. During its first year of operation, SRCMS found that 77% of the 131 enquiries, complaints and disputes it dealt with related to integrity issues in community sport and active recreation.

There's a clear direction, shaped by sector and participant voices, and progress has been made

- The 2018 Sport Integrity Review produced 22 recommendations to improve integrity outcomes in the Sport and Recreation Sector. These have been substantially completed, including:
 - The establishment of an independent sport and recreation complaints mediation service in Feb 2021
 - A range of Sport NZ initiatives to strengthen integrity including the establishment of the integrity guidance portal, and a refresh of the Integrity Framework.
- In December 2020, the Play, Active Recreation and Sport Integrity Working Group (IWG) was established and asked to look at institutional and structural changes to support an effective integrity system for sport and recreation.
- The IWG engaged with a wide range of sector stakeholders, including agencies with a wider integrity role like the Human Rights Commission and Office of the Children's Commissioner.
- Specific feedback was also sought on how any future design would uphold the mana of Te Tiriti o Waitangi / Treaty of Waitangi and its key principles.
- In April 2022, the working group issued a report which found that despite best intentions, the sector lacked capacity and capability to deal with integrity issues. And they identified a strong sense 'that the current system is not fit for purpose.. and a lack of trust in the ability of Sector organisations to deal with integrity issues objectively and to support those who have experienced trauma.'
- Aspects of the current system are working well and will be retained. These include Sport NZ integrity functions, complaints and mediation services, Drug Free Sport NZ, and the Sports Tribunal.
- The IWG ultimately recommended the creation of an independent integrity entity (incorporating Drug Free Sport NZ and the functions of Sport NZ); the introduction of a National Code of Sport Integrity; and the signing of the Maori Convention as one measure to help address competition manipulation.

We're tasked with strengthening the sport and recreation integrity system, including the establishment of a new agency

- In June 2022, Cabinet agreed in principle to establish a new agency to strengthen and protect the integrity of the sport and recreation system, and this was confirmed by Cabinet decisions on 3 October 2022.
- The independent Integrity Transition Committee and a Programme Team were established to stand-up the new entity and develop a national code in conjunction with stakeholders and participants.
- Once established, the new agency (Integrity Sport and Recreation NZ) will fold-in existing parts of the current integrity system, including Drug Free Sport NZ, the current integrity work of Sport NZ, and provision of complaints and mediation services.
- The Integrity Transition Programme priorities include:
 - Developing the functions, purpose and role of the new agency
 - The development of a national code
 - Engaging with Māori stakeholders to ensure the overall approach and design of the organisation, and code, meets Te Tiriti obligations
 - Progressing the work required to design an approach to competition manipulation, and explore what our international responsibilities might be
 - Working with relevant stakeholders on integrity outcomes for tamariki and rangatahi.
- Legislation is required to establish the new entity. We're working to support that process, and it is intended that the new entity will be operational in 2024.

Integrity definition (Cabinet agreed 3 October 2022): *The integrity of the New Zealand play, active recreation and sport system encompasses personal, organisational and competition integrity, and ensures the safety, security, wellbeing, and inclusion of all participants in a manner consistent with internationally recognised human rights and the principles of te Tiriti o Waitangi. It rejects competition manipulation, discrimination, bullying, harassment, cheating, violence, abuse, racism, corruption, doping and fraud or any other criminal conduct, and promotes fairness, transparency, accountability, and a right for participants to be heard.*

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INTEGRITY TRANSITION COMMITTEE

HANDOVER REPORT

MAY 2023

SPORT AND
RECREATION

INTEGRITY
TRANSITION PROGRAMME

TE TĀKARO NGĀKAU PONO