

SPORT AND RECREATION INTEGRITY STRUCTURAL REFORM

TERMS OF REFERENCE FOR THE SPORT AND RECREATION INTEGRITY TRANSITION COMMITTEE

Date: 16 June 2022

COMMITMENT OF THE 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>
	•	•
	•	•
	•	•
	•	•

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

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