

# Regulatory Impact Statement: A new sport and recreation integrity entity

## Coversheet

Purpose of Document	
Decision sought:	In principle agreement to establish a new entity responsible for the integrity of the sport and recreation system
Advising agencies:	Sport New Zealand
Proposing Ministers:	Sport and Recreation
Date finalised:	23 May 2022
Problem Definition	
1.	Some participants in the Sport and Recreation sector in New Zealand continue to experience the impact of serious integrity issues such as bullying, unfair treatment, abuse and discrimination. Despite recent improvements, and the efforts of Sport New Zealand (Sport NZ), the current sport and recreation sector continues to lack capability for dealing with integrity issues. Additional work that Sport NZ had either planned or underway may go some way to addressing the lack of clear integrity standards and the capability issues in sports and recreation organisations. However, these changes would not address the issue of a lack of perceived independence of Sport NZ and its subsidiary High Performance Sport New Zealand (HPSNZ) from National Sport and Recreation Organisations when dealing with integrity issues arising within those organisations and their affiliates.
Executive Summary	
2.	The issue of "integrity" in sport has increased in prominence in recent years, both in New Zealand and internationally. In this country, Sport NZ and national sports organisations have instigated several reviews and investigations in response to integrity issues in the sector such as bullying, harassment, unfair treatment and child protection.
3.	While a range of action has been taken both at a system level by Sport NZ and by individual organisations, the continuing number and seriousness of the integrity issues within the sector suggest that more needs to be done, particularly in the areas of member protection and child safeguarding. The consequences of integrity breaches can be extremely serious for the individuals affected and their whānau and support networks.
4.	In April 2022, the Play, Active Recreation and Sport Integrity Working Group (IWG) reported on the institutional and structural changes required to support an effective integrity system for sport and recreation. The IWG recommends the establishment of a new entity, entirely independent of Sport NZ.
5.	Stakeholders consulted by the IWG strongly supported a new entity, with feedback highlighting a perceived lack of trust in the ability of Sport NZ to act objectively and independently in addressing integrity issues given its close working and funding

relationship with national sports organisations and the wider sector. The IWG also found a continuing lack of capability across the sector for managing integrity issues, especially complaints, and a lack of clear integrity standards.

6. This regulatory impact statement outlines Sport NZ's assessment of three structural options for achieving the objective of ensuring that New Zealand has an integrity system that ensures that all participants can participate in a safe, fair and inclusive environment, on a level playing field with their wellbeing safeguarded and protected.
7. The three options are:
  - Option One – Counterfactual. This option involves no structural change but further action from Sport NZ to increase the capability of the sector to manage integrity issues, including pursuing additional funding
  - Option Two – Evolutionary approach. This option increases the focus on integrity and independence in managing integrity issues through the establishment of an independent statutory integrity director, a specialised integrity unit and a specialist integrity advisory committee within Sport NZ.
  - Option Three – A new Sport Integrity Entity. A new entity with responsibility for sport integrity would be created, which is independent from Sport NZ. The existing functions of Drug Free Sport New Zealand and all or many of the integrity functions of Sport NZ would transfer to the new entity.
8. Having assessed the options against evaluative criteria, Sport NZ's preferred option is Option Three: the creation of a new sport and recreation integrity entity. This option is judged as much stronger than the counterfactual with respect to the trust and confidence in the system, which is critical to its success.
9. This RIS is intended to support an in-principle Cabinet decision on the preferred structural solution, with final agreement to the proposed solution and the details of it to be sought from Cabinet later in the year. The second phase of work will include work on dispute resolution and athlete voice mechanisms, the form and content of a National Code of Sport Integrity and the benefits of accession to the Macolin Convention, a multilateral treaty that aims to prevent, detect, and punish match fixing in sport. This two-phase approach has been taken so that direction can be provided before more detailed work is undertaken, including further sector consultation.
10. To oversee the work required to support the second Cabinet paper and subsequent implementation work, Sport NZ intends to appoint an Integrity Transition Committee (the Committee) to guide and oversee this work. The Committee will be complemented by a separate Māori Advisory Board that will ensure the next phase is undertaken in a bi-cultural manner.
11. As the current Cabinet paper seeks only an in-principle decision, further detail of implementation and the plans for monitoring, evaluation and review will be provided in the next Cabinet paper and associated RIS.

#### Limitations and Constraints on Analysis

12. At this stage, it has not been possible to assess the impact of recent system enhancements such as the Sport and Recreation Complaints and Mediation Service. Although the issue of perceived independence is unlikely to be addressed under the counterfactual (Option One), the lack of data means there is some uncertainty as to

what the extent of the problem would be once the impact of the recent changes have been accounted for.

13. There has also been an absence of engagement regarding the potential options with specific population groups such as Māori and disabled people. Engagement with specific population groups is planned as part of the second phase of work.
14. It is not yet possible to accurately canvas the scale of the benefits of a new integrity entity as further work is planned on the full range of functions the new entity will have.

#### Responsible Manager(s) (completed by relevant manager)

Nicki Ablitt  
Group Policy Manager  
Strategic Policy and Corporate  
Sport New Zealand



23/5/22

#### Quality Assurance (completed by QA panel)

Reviewing Agency: Manatū Taonga (Ministry for Culture and Heritage)

Panel Assessment & Comment: A RIA Quality Assurance Panel at Manatū Taonga has reviewed the Regulatory Impact Statement: A new sport and recreation integrity entity, and considers it partially meets the quality assurance criteria.

The RIS makes a high-level case for change, based on relatively clear evidence of a structural issue that is not easily addressed by non-regulatory intervention. The RIS identifies that the proposed two-phase approach to decision-making, with the detailed design and functions of the new entity not yet considered, means that some of the analysis is necessarily not fully informed. This is particularly evident when it comes to quantifying the preferred option's costs, benefits, and overall impacts, and planning its implementation and evaluation. Nevertheless, the Panel considers the RIS provides enough information to inform an in-principle decision. The next phase of more detailed design and analysis, including stakeholder consultation, should support robust final decisions.

## Section 1: Diagnosing the policy problem

**What is the context behind the policy problem and how is the status quo expected to develop?**

*What is integrity in sport and recreation?*

15. Integrity in the context of sport and recreation has increased in prominence in recent years, both in New Zealand and internationally. Historically, the concept of "integrity" in sport has referred primarily to the issues of doping, corruption and match fixing, and

those issues continue to be core elements of sport integrity. However, issues of integrity are also now commonly understood to include responsibilities for safeguarding and wellbeing, including participant protection (protection from bullying, discrimination, harassment, unethical conduct, and unfair decision-making) and child safeguarding.

*How is integrity in sport and recreation currently managed in New Zealand?*

16. Overall responsibility for system kaitiakitanga, policy and funding of sport and recreation in New Zealand sits with Sport New Zealand (Sport NZ), a Crown Entity established under the Sport and Recreation New Zealand Act 2002. The Act provides Sport NZ with several functions, including the development of national policies and strategies for physical recreation and sport, the funding of sport and recreation activities, the promotion of physical activity and the provision of advice and support for sport and recreation organisations. With respect to integrity specifically, one of the legislative functions of Sport NZ is to facilitate the resolution of disputes between persons or organisations involved in physical recreation and sport.
17. In practice Sport NZ carries out various activities to support the integrity of the sport and recreation system. These tasks include education, guidance, training and capability building in relation to good governance, member protection and child safeguarding in particular. Sport NZ works closely with sports and recreation organisations when specific integrity issues arise to support those organisations to increase capability to deal with those issues appropriately. In February 2021, Sport NZ established the Sport and Recreation Complaints and Mediation Service (SRCMS) to respond to complaints and disputes of a non-criminal nature.
18. High Performance Sport New Zealand (HPSNZ) has been established as a subsidiary of Sport NZ and is focussed primarily on the delivery of outcomes related to high performance sport. It has an important role in relation to integrity to support National Sports Organisations to provide a safe environment for athletes in high performance environments.
19. Although Sport New Zealand has these system-level responsibilities in relation to sport and recreation, issues of integrity are governed by several pieces of legislation, with responsibility sitting across various agencies including:
  - a. **Anti-doping** is the responsibility of Drug Free Sport New Zealand (DFSNZ), an Independent Crown Entity created under the Sports Anti-Doping Act 2006. DFSNZ makes and implements rules to implement the World Anti-Doping Code, the current rules being the Sports Anti-Doping Rules 2022. Enforcement of sanctions is undertaken through the decisions made by the New Zealand Sports Tribunal (supported by Sport New Zealand which provides the secretariat) and via NZ Rugby's Judicial Committee.
  - b. **Match fixing and Corruption** are dealt with under the general criminal law.
  - c. **Member protection** and **Child protection** are subject to the criminal law when a certain threshold of behaviour is met, with many organisations having their own policies when non-criminal behaviour is involved. Oranga Tamariki has a role in child protection under the Oranga Tamariki Act 1989, and mandatory safety vetting of people working with children is governed by the Children's Act 2014.

*The sport and recreation sector suffers from serious issues in relation to integrity*

20. The last decade has seen a noticeable number of issues of athlete welfare, bullying, abuse, and inappropriate behaviour and culture come to public attention in high-performance sports, such as football, cycling and hockey, and these issues are continuing. Serious integrity issues relating to athlete treatment and wellbeing coming to public attention in the last two years include:
- a. allegations following the suspected suicide of elite cyclist Olivia Podmore, leading to the appointment of Michael Heron QC to lead an independent review into the culture and support at Cycling NZ and HPSNZ;
  - b. allegations of an athlete welfare crisis in the women's canoe racing elite programme;
  - c. information leading to a cultural and environmental review into the Black Ferns in April 2022, which found:
    - New Zealand Rugby (NZR) should place greater focus on rights and welfare needs of players and management; and
    - NZR needs to ensure that there is sufficient awareness of, and confidence in, the channels available for people to disclose or report harm.<sup>1</sup>
21. While issues within high performance sport attract national media attention, there are similar issues arising regularly across all levels of the sport and recreation system, from elite to grassroots. One major example can be seen in 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.<sup>2</sup> 93 complaints arose from the gymnastics community during the review process that were referred to Sport New Zealand's Interim Complaints Mechanism (all from women, most of whom were minors when the complaint arose).<sup>3</sup> 15 of the 93 resulted in an investigation process being put in place.
22. The recently established SRCMS reported that 77% of the 131 enquiries, complaints and disputes it dealt with in its first year of operation related to community sport and recreation.<sup>4</sup>
23. Since it was established in August 2019, Sport NZ's Integrity Team has assisted sport and recreation organisations with 29 integrity related issues. This has included several bullying and harassment matters, allegations of assault, child protection, unfair treatment and board/committee issues. Organisations also raise issues directly with Sport NZ partnership managers and with HPSNZ.
24. Available survey data suggests that integrity issues may not have had a wide-reaching impact within our sports clubs or with the public at large. Sport NZ's Voice of the Participant (VoP) surveys suggest a high degree of trust from participants in the ability

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<sup>1</sup> [Black-Ferns-review-2022.pdf \(nzrugby.co.nz\)](#)

<sup>2</sup> Independent Review of Gymnastics New Zealand, David Howman, Lesley Nicol, Rachel Vickery. February 2021. See also [Former Scout leader James Morris sexually abused children for 40 years | Stuff.co.nz](#)

<sup>3</sup> In May 2019 Sport New Zealand established an Interim Complaints Mechanism to hear complaints and issues from high-performance carded athletes. In mid-2020 the ICM was expanded to incorporate complaints arising from the Gymnastics community during the Gymnastics NZ review process.

<sup>4</sup> Sport and Recreation Complaints and Mediation Service Snapshot of year 2021 - 2022

of their own club to handle integrity issues appropriately and effectively, with 83% believing integrity issues are well managed and 7% thinking there is a problem.<sup>5</sup> The Active NZ survey, which surveys the public at large, points to 10-12% of the population believing integrity is not well managed. However, the results of this survey are more equivocal than the VoP surveys with a large percentage either answering with middle score of 3 out of 5 (20-30%) or 'don't know' (20-30%).

25. We consider these results are likely to reflect the fact that most people have not had any personal experience with an integrity issue when participating in sport and recreation. For those who do experience a problem the consequences of integrity breaches can be serious, both for the individuals affected, their whānau and support networks. Serious impacts include significant distress,<sup>6</sup> poor mental health,<sup>7</sup> trauma,<sup>8</sup> and medical problems including eating disorders.<sup>9</sup> The SRCMS estimates that some 41% of the matters received are high stakes, that is they have a high-risk profile overall; this is because (for example) the matter involves potential media exposure or litigation, a party experiencing mental health challenges, particularly serious and/or career-defining allegations, or because for other reasons, the matter, if not resolved, will significantly impact those involved in the dispute and/or the sport or sporting community.<sup>10</sup>

*There have been numerous investigations and reviews into integrity issues in recent years*

26. To better understand the challenges the sector faces, Sport NZ, HPSNZ and national sport organisations have undertaken or commissioned a sequence of reports focussed on the measures required to ensure the sector protects the safety and wellbeing of its participants and deals effectively with issues when they arise.
27. Some of these, such as the 2018 Independent Review into NZ Football by Phillipa Muir, have been commissioned into a specific sport by the relevant national sport organisation. Others, such as the 2018 report on Elite Athletes Rights and Welfare by Stephen Cottrell, were commissioned by Sport NZ to address issues across the sector more widely. A full list of these reviews is outlined in the Appendix.
28. The most comprehensive review was the Sport Integrity Review, undertaken by Sport NZ and released in September 2019. A list of the Review's key findings is included in the Appendix.
29. This review identified a genuine lack of capability across the sport and recreation sector to prevent, identify, handle and resolve integrity issues when they arise. It found that many organisations, particularly smaller ones, were struggling to keep up with this increasingly complex and multi-dimensional area. At the community level, many

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<sup>5</sup> Voice of the Participant Survey 2020/21 (at this stage unpublished). See [Club member experience survey | Sport New Zealand - Ihi Aotearoa \(sportnz.org.nz\)](#) for results from previous years.

<sup>6</sup> Black Ferns Cultural and Environmental Review.

<sup>7</sup> Independent Review of Gymnastics New Zealand.

<sup>8</sup> Sport and Recreation Complaints and Mediation Service Snapshot of year 2021 – 2022.

<sup>9</sup> Independent Review of Gymnastics New Zealand.

<sup>10</sup> As above.

administrators are volunteers who may lack the time, expertise and capability to prevent, handle and resolve these issues appropriately.

30. The Sport Integrity Review made 22 recommendations to address the key issues highlighted by the review. These recommendations included a mix of improvements and enhancements to existing institutions and mechanisms designed to uphold and protect the integrity of sport and recreation in New Zealand, in addition to the introduction of some new measures.

*The Sport Integrity Review led to the establishment of a new Sport and Recreation Complaints and Mediation Service in February 2021*

31. One of the recommendations of the Sport Integrity Review was to investigate the establishment of a sports mediation service. Following a robust feasibility study and consultation process, the Sports and Recreation Complaints and Mediation Service (SRCMS) was established in February 2021. The SRCMS is contracted by Sport NZ and delivered by a company independent of sport and recreation organisations. It is free and confidential but notably a consent-based service.
32. As mentioned above, the SRCMS received 131 enquiries, complaints and disputes in its first year of operation. As at the end of February 2022, the SRCMS had 42 active matters and 89 matters had been closed. The SRCMS has bridged parties to early facilitation and/or mediation in 34 cases and of these over 80 per cent resolved some or all of the underlying issues.

*Further interventions have been introduced to respond to review findings to improve the integrity system*

33. In addition to progressing the recommendation for a SRCMS, the other 21 recommendations have either been completed or are in progress. Some of the key actions taken since the Integrity Review are included in the Appendix.

*The Integrity Working Group was asked to examine if institutional and/or structural changes are required to support an effective integrity system for sport and recreation*

34. Although the Integrity Review did not recommend the creation of a separate sport integrity unit or entity at that time, the feasibility study commissioned into a Sport and Recreation Mediation Service identified that evaluation of an independent integrity entity was required. Therefore, in December 2020, Sport NZ established a working group to consider the most appropriate institutional arrangement(s)/structures(s) to manage the various integrity elements across the system and accommodate the 22 recommendations from the Integrity Review.

35. The Play, Active Recreation and Sport Integrity Working Group (IWG) was appointed with members from across the sport and recreation sector and chaired by Don Mackinnon, an experienced employment and sports law barrister who holds multiple governance positions. The IWG provided its [final report](#) to Sport NZ and the Minister for Sport and Recreation, Hon Grant Robertson, in April 2022.

*The IWG found several issues with the current system*

36. The IWG consulted widely with the sector along with the Health and Disability Commissioner, the Race Relations Commissioner, the Office of the Children's Commissioner, and subject matter experts.

37. The IWG found that despite the progress in the last few years in addressing integrity issues in New Zealand sport and recreation, there is still a lack of capability across the sector in relation to integrity issues. This is particularly in relation to the reporting and management of sports complaints, with sport organisations, especially smaller ones, struggling to keep up with what is an increasingly complex and multi-dimensional area.
38. A key theme from feedback was that for many, there is a perceived lack of trust in the ability of Sport NZ to act objectively and independently in addressing integrity issues given its close working and funding relationship with national sports organisations and the wider sector.
39. The IWG noted that a further significant issue is the difficulty in prioritising integrity issues within Sport NZ given the significance of its other functions which include kaitiakitanga of the play, recreation and sports sector, funding of the sector, and the promotion of policy outcomes relating to play, active recreation and sport.
40. Further detail on the IWG's findings is outlined in the appendix.
41. The IWG report considers two options for structural change having discounted the status quo as unable to deliver on design objectives and design principles developed by the IWG (informed by criteria set out in the Terms of Reference). The two options for change taken forward to feasibility testing were:
- a. An evolutionary model which would involve (amongst other things):
    - establishing a new integrity unit within Sport New Zealand
    - a new statutory director of integrity within Sport New Zealand
    - the role of Drug Free Sport New Zealand being expanded to take on competition manipulation functions
  - b. A new stand-alone integrity organisation independent of Sport New Zealand, which would involve (amongst other things):
    - Drug Free Sport New Zealand folding into the new agency
    - Sport New Zealand's existing integrity functions transferring to the new agency.
42. The IWG recommended the establishment of a new entity, entirely independent of Sport New Zealand. The IWG also recommended the development of a National Code of Sport Integrity and New Zealand becoming a party to the Macolin Convention as necessary under both options. The Macolin Convention is a multilateral treaty that aims to prevent, detect, and punish match fixing in sport. The convention was concluded in Macolin/Magglingen, Switzerland, on 18 September 2014.



## What is the policy problem or opportunity?

43. Sport NZ acknowledges that despite several system improvements in recent years the integrity system is a significant distance away from one which adequately protects the wellbeing of participants. This is evidenced by the nature of the issues coming to the attention of the SRCMS, the ongoing issues with athlete treatment and wellbeing in high performance sport and the feedback provided to the IWG.
44. The examination by the IWG demonstrates that there is a lack of clear integrity standards, a lack of capability in the sector for managing integrity issues and a system that is complex for participants to navigate.
45. We consider that the additional work that Sport NZ had either planned or underway will go some way to addressing the lack of clear integrity standards and the capability issues in sports and recreation organisations. The SRCMS is providing an accessible complaints and dispute resolution mechanism that is still bedding in, and we expect this to increase in visibility over the near future.
46. In the absence of structural change, progress on improving integrity capability within the sector and strengthening the integrity system is expected to continue through action by Sport NZ including:
  - a. increasing the capability of the sector to manage integrity issues, including progressing the development of an athlete voice mechanism
  - b. monitoring the operations of the SRCMS to assess whether it is providing an effective response to integrity issues arising in the sector and targeting appropriate interventions
  - c. monitoring whether Drug Free Sport New Zealand is likely to require additional funding beyond 2024 (noting that current additional funding secured through the COVID-19 Recovery Package runs out in 2024)
  - d. seeking to develop a National Code from Sport Integrity
  - e. providing advice to Government on whether New Zealand should join the Convention on the Manipulation of Sports Competition (the Macolin Convention) which was one of the recommendations of the Sport Integrity Review
  - f. providing advice to Government on increasing the number of Sports Tribunal Panel members (also one of the recommendations of the Sport Integrity Review).
47. However, Sport New Zealand recognises the issue of perceived independence, particularly in relation to high performance sport. The IWG heard very clearly from athletes and others that the lack of independence of Sport New Zealand and HPSNZ from the organisations they fund can make athletes and others in high performance programmes reluctant to raise issues or complaints. Unless athletes and participants feel safe to do this, issues are likely to remain either unaddressed, or can escalate, causing greater levels of harm to those involved.
48. The relationship between HPSNZ and National Sports Organisations in relation to high performance programmes is a particularly close one. In addition to being a major funder of many high-performance programmes, HPSNZ employs or contracts many of the specialist staff working in high performance programmes, for example nutritionists and psychologists, and works alongside NSOs towards achieving international sporting success. While significant progress has been made to encourage the escalation of integrity issues to HPSNZ and to provide an objective response, the perception of lack

of independence would be difficult to overcome under the current structural arrangements.

*An ineffective integrity system may have disproportionate impacts*

49. We consider that a system that does not deal with integrity issues effectively is likely to have disproportionate impacts on vulnerable and disadvantaged groups, such as tamariki and rangatahi, women, disabled people, LGBTQ+, Māori and Pacific peoples and those from minority ethnic backgrounds. There has not yet been specific consultation on the options considered in this RIS with the majority of these groups. However, we do know that many of these groups already have lower levels of participation in sport and recreation<sup>11</sup> and are under represented at the management and governance levels<sup>12</sup>. We also know from experience such as the 2021 Independent Review into Gymnastics New Zealand that tamariki and rangatahi can be particularly vulnerable to experience negative treatment and its impacts in sport settings because of their age, maturity and dependence on adults.<sup>13</sup>
50. We think it is possible that for some groups there is a higher risk of discrimination or exclusion in sport and recreation settings. There is international research pointing to evidence that LGBTQ+ people experience discrimination in sport.<sup>14</sup> Although data in the New Zealand context is lacking, one study from 2015 surveyed participants from several nations including 631 New Zealand participants, the majority of whom identified as lesbian, gay or bisexual. 87% of all the New Zealand participants reported witnessing homophobia in a sporting environment and 48% of LGB participants reported experiencing it in a sporting environment.<sup>15</sup>

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<sup>11</sup>Data shows that women, adult Māori and Pacific and young and adult Asian New Zealanders have lower levels of participation in physical activity (Active NZ 2019). Disabled people participate significantly less in physical activity, although this is more marked amongst adults. More than a third of disabled adults do not participate in active recreation and sport, *A Spotlight on Disability* (data from Active NZ 2017).

<sup>12</sup> Women and Māori are under-represented in leadership and management across the sector [women-and-girls-govt-strategy.pdf \(sportnz.org.nz\)](#), [e-aho-a-ihi-aotearoa-april-2022.pdf \(sportnz.org.nz\)](#). There is also evidence suggesting Asian New Zealanders are underrepresented at this level – see *The Barriers to Asian Participation in Formal Leadership within Community Sport - A Developing Ethnic Leaders Insight Study*, Sport Waitakere, 2022.

<sup>13</sup> See also international work such as the Points of Consensus that were adopted at the 1<sup>st</sup> ILO Global Dialogue Forum on Decent Work in the World of Sport held on 20-22 January 2020 which stated:

*Children and young athletes require special protection from abuse and from injuries and illness resulting from sport, including protection of mental well-being. Such protection is especially important for minors in situations away from their home. The Worst Forms of Child Labour Convention, 1999 (No. 182) is particularly relevant in this regard.*

and called for:

*...safeguarding the rights of children and young people to participate in sport in conditions of freedom, dignity and safety, including through the integration of dedicated policies, programmes and training in keeping with the best interests of the child and internationally recognized standards.*

<sup>14</sup> Reviewing evidence of LGBTQ+ discrimination and exclusion in sport, Erik Denison, Nadia Bevan & Ruth Jeanes, [Full article: Reviewing evidence of LGBTQ+ discrimination and exclusion in sport \(tandfonline.com\)](#)

<sup>15</sup> Denison E, Kitchen A. (2015). Out on the Fields: The first international study on homophobia in sport. Nielsen, Bingham Cup Sydney 2014, Australian Sports Commission, Federation of Gay Games. Retrieved from [www.outonthefields.com](#).

## What objectives are sought in relation to the policy problem?

51. The primary objective of this work is to ensure that New Zealand has an integrity system that ensures that:
- all participants can participate in a safe, fair and inclusive environment, on a level playing field with their wellbeing safeguarded and protected; and
  - when participants have an integrity issue there are effective responses to address what may have gone wrong.

RELEASED BY SPORT NZ UNDER OUR COMMITMENT TO OPEN GOVERNEMENT

## Section 2: Deciding upon an option to address the policy problem

### What scope will options be considered within?

52. Having considered the IWG's report, this regulatory impact statement considers the structural options to address the ongoing integrity concerns within the system. This is to support decision-making in two phases:
- a. Phase One (this phase): In principle agreement by Cabinet on the structural arrangements to manage the various existing integrity elements across the system as well as a new National Code of Sport Integrity for the Sector
  - b. Phase Two: Agreement by Cabinet to the detail of the new structural arrangements, along with decisions on:
    - a. the form and content of the National Code of Sport Integrity (including whether it would be voluntary or regulated).
    - b. New Zealand becoming a party to the Macolin Convention and assessing whether the functions of Drug Free Sport New Zealand will be expanded to include competition manipulation, or whether DFSNZ will be absorbed into a new entity
    - c. increasing the number of members of the Sports Tribunal
    - d. any new integrity functions to be performed under the arrangements such as an appropriate athlete support mechanism (which would support athletes through complaints and disciplinary processes) and whether a disciplinary function is required in the new system.
53. This two-phase approach will enable an initial decision to provide direction before more detailed work is undertaken, including further sector consultation.
54. We note that although Cabinet is being asked to agree to the development of the National Code of Sport Integrity in this phase, this RIS does not evaluate options in relation to the Code. This is because options as to the appropriate regulatory approach for the Code will not be considered until Phase Two.
55. The change options considered in this RIS are broadly the same as the two change options identified and analysed by the IWG although without the same level of specificity as to the functions to be performed under the new arrangements as is contained in the IWG report (as this will be the subject of further work in phase two). The IWG undertook extensive sector consultation and research, including into the position internationally and the steps taken by comparable jurisdictions (such as Australia which established Sport Integrity Australia in 2020 as a new independent entity). Given the breadth and quality of the IWG's analysis we have carried these two change options forward into this RIS.

### What criteria will be used to compare options to the status quo?

56. This RIS is focussed on the optimal organisational structure so we have selected criteria relevant to the structural/organisational options specifically. The selected criteria are:
- a. the option supports a focus on integrity to ensure the issues receive the attention required
  - b. the option provides a simple, accessible system
  - c. the option facilitates trust and confidence from system participants

- d. the option is a cost-effective solution by protecting against and resolving integrity issues effectively and efficiently.

## What options are being considered?

### Option One – Counterfactual

- 57. This option continues with Sport New Zealand as the kaitiaki of the sport integrity system and Drug Free Sport New Zealand remains as it is in its current form. To further progress system improvements, Sport New Zealand will:
  - a. use its existing integrity team to increase the capability of the sector to manage integrity issues, including (through HPSNZ) progressing the development of an athlete voice mechanism, bringing together a group that can represent athlete matters within the high-performance environment.
  - b. continue to contract the newly established SRCMS to provide a dispute resolution service subject to review over time
  - c. pursue additional government funding to increase Sport New Zealand's capacity and focus on integrity matters and for increased capability building within the sector
  - d. monitor whether Drug Free Sport New Zealand is likely to require additional funding beyond 2024 (noting that current additional funding runs out in 2024).

### Option Two – Evolutionary approach

- 58. This option also continues with Sport New Zealand as the kaitiaki of the sport integrity system and Drug Free Sport New Zealand remains as it is in its current form but includes the following organisational and legislative changes to increase the focus on integrity and provide independence:
  - a. legislative amendments to establish an independent integrity director
  - b. a specialised integrity unit
  - c. a specialist integrity advisory committee.
- 59. The bullet pointed actions listed under Option One would continue to be performed by Sport NZ under this option.

### Option Three – A new Sport Integrity Entity

- 60. This option involves:
  - a. the creation of a new entity with responsibility for sport integrity, which is independent from Sport New Zealand
  - b. the existing functions of the Drug Free Sport New Zealand would transfer to the new entity
  - c. all or many of the integrity functions of Sport New Zealand would transfer to the new entity (noting that additional policy work will be required by September to clarify which integrity functions would remain with Sport New Zealand and how the functions of the two entities would work together).
- 61. The bullet pointed actions listed under Option One would continue to be performed under this option either by the new entity or by Sport NZ.

## How do the options compare to the status quo/counterfactual?

### Key for qualitative judgements:

- ++ much better than doing nothing/the status quo/counterfactual
- + better than doing nothing/the status quo/counterfactual
- 0 about the same as doing nothing/the status quo/counterfactual
- worse than doing nothing/the status quo/counterfactual
- much worse than doing nothing/the status quo/counterfactual

	Option One –Counterfactual	Option Two – An evolutionary approach	Option Three – A new sport integrity entity
		<i>(monetary value or symbol for qualitative judgement, plus a brief comment)</i>	
<b>Supports a focus on integrity to ensure the issues receive the attention required</b>	<p>0</p> <p>Sport New Zealand will be required to continue to balance its responsibilities regarding integrity with funder and system kaitiaki, which could mean that integrity issues do not receive the priority required to achieve the objectives of this project (to ensure that New Zealand has an integrity system that ensures that all participants can participate in an environment of fair competition and in safety, security and with their wellbeing protected). To avoid a re-prioritisation of resource already dedicated to integrity matters, this would likely require additional Government funding.</p>	<p>+</p> <p>This option provides an enhanced focus through the establishment of new mechanisms with the sole focus on integrity issues including the establishment of an independent statutory integrity director, a specialised integrity unit and a specialist integrity advisory committee. This provides a separation of functions from the funding role of Sport New Zealand and its responsibility as kaitiaki of the overall sport and recreation system.</p> <p>Ultimately the funding available (which has not yet been determined) will impact how much focus can be applied.</p>	<p>++</p> <p>This option provides the opportunity for a significantly enhanced focus on integrity as it involves the creation of a new agency with a singular focus on integrity.</p> <p>Ultimately the funding available (which has not yet been determined) will impact how much focus can be applied.</p>

<b>Provides a simple, accessible system</b>	<p>0</p> <p>Work could be done to enhance visibility of the dispute resolution pathway offered by the SRCMS but this pathway remains voluntary so it is not accessible to all. Athletes and participants will still be required to deal with multiple parties across the integrity landscape.</p>	<p>+</p> <p>This option simplifies the current arrangements to some extent but athletes and participants will still be required to deal with multiple parties across the integrity landscape. There remains a risk of a lack of clarity around accountability as the independent statutory director will be housed within Sport New Zealand. This option allows further work to be done on dispute resolution mechanisms as the SRCMS is currently voluntary so it is not accessible to all.</p>	<p>++</p> <p>This option simplifies the current arrangements by bringing many integrity functions in the system under one roof, with the resulting clearer accountability for delivering a strong system of integrity for the sport and recreation sector. However, some functions relating to matching fixing, corruption and child protection will still reside with other agencies such as Police and Oranga Tamaki. This option allows further work to be done on dispute resolution mechanisms as the SRCMS is currently voluntary so it is not accessible to all.</p>
<b>Facilitates trust and confidence from system participants</b>	<p>0</p> <p>Both actual and perceived independence continue to be a significant barrier to trust and confidence under this option as Sport New Zealand remains responsible for both addressing integrity issues that arise within organisations and funding and supporting</p>	<p>+</p> <p>This option provides greater independence and focus than is present under the counterfactual, but the perception of a lack of independence may persist given that integrity functions continue to rest within Sport New Zealand.</p>	<p>++</p> <p>This option provides significantly greater independence than the current arrangements. Feedback from stakeholders to the working group strongly favoured this option as it was considered to better achieve independence.</p>

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	those organisations to be successful. This is particularly problematic at the high-performance level where the relationship between High Performance Sport New Zealand and National Sports Organisations is especially close.		
<b>Provides a cost-effective solution by protecting against and resolving integrity issues effectively and efficiently</b>	<p>0</p> <p>Current costs of delivering integrity services sit at \$9.8 million per annum, \$5.1 million of which funds the operations of Drug Free Sport New Zealand.</p> <p>Additional funding will be required for both Sport New Zealand and DFSNZ to fully address the issues identified across the sector and in Sport New Zealand's case, retain integrity as a priority.</p>	<p>+</p> <p>The costs of this option range from [REDACTED] per annum in operating costs (compared to \$9.8 million existing expenditure).</p> <p>This provides benefits over the counterfactual in relation to all the criteria above but at a relatively modest additional cost.</p>	<p>+</p> <p>The cost of this option is between [REDACTED] operating costs depending on the final design and whether additional functions in relation to dispute resolution and athlete/participant support are included (compared to \$9.8 million existing expenditure).</p> <p>While this option is likely to be more expensive than option two, it offers significant benefits with respect to the issues of independence and the potential for significant benefits in relation to the desire for a simple and accessible system.</p>
<b>Overall assessment</b>	0	+	++

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## What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?

62. Sport NZ's preferred option is the creation of a new sport and recreation integrity entity. This option is judged as much better than the counterfactual with respect to the issue of trust and confidence. Option Two offers a number of advantages when compared to the counterfactual, including potential for increased trust and confidence through the creation of a new integrity director with statutory independence. However, the feedback provided to the IWG suggests that this may still not be perceived as completely independent by system participants because the office would continue to be housed within Sport NZ.
63. Without a new entity it is possible that we may make significant improvements to the system in areas such as accessibility, clear integrity standards and improved sector capability but not see the full benefit of these improvements because trust and confidence in the system is still lacking.
64. We note that with both change options (Options Two and Three) more work is required on several aspects including dispute resolution, disciplinary processes, and athlete support mechanisms, before we can address all aspects of the problem, as set out earlier in this RIS.

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## What are the marginal costs and benefits of the option?

<b>Affected groups</b> (identify)	<b>Comment</b> <i>nature of cost or benefit (eg, ongoing, one-off), evidence and assumption (eg, compliance rates), risks.</i>	<b>Impact</b> <i>\$m present value where appropriate, for monetised impacts; high, medium or low for non-monetised impacts.</i>	<b>Evidence Certainty</b> <i>High, medium, or low, and explain reasoning in comment column.</i>
<b>Additional costs of the preferred option compared to taking no action</b>			
Regulated groups	Minor one-off and ongoing costs possible in training and new systems and processes.	Low  Most costs to regulated groups likely to result from Phase Two policy decisions.	Low  Work has not yet been done to quantify these costs in monetary terms.
Regulators	Establishment and ongoing costs of new entity.	§ 9(2)(f)(iv) in ongoing costs.  \$4.8 million in establishment costs.	Medium to high.  The feasibility study by Martin Jenkins conducted a detailed cost analysis.  Funding of \$4.8 million earmarked for transition (establishment) costs of the new entity.
Others (eg, wider govt, consumers, etc.)	Very minor costs of some other government agencies in adapting to new systems and processes.	Low  Most costs to wider government likely to result from Phase Two policy decisions.	Low  Work has not yet been done yet to quantify these costs in monetary terms.
<b>Total monetised costs</b>		§ 9(2)(f)(iv) in operating costs  \$4.8 million in establishment costs.	Medium to high
<b>Non-monetised costs</b>		Low to medium	Medium
<b>Additional benefits of the preferred option compared to taking no action</b>			
Regulated groups	A system that better protects athlete and participant wellbeing reduces harm to individuals and the flow on harms to their friends, whānau and team-mates/colleagues.	Medium to high	Low to Medium  Clear evidence of harms to individuals impacted by integrity can be taken from reviews over recent years, and from first yearly SRCMS report.

			Comprehensive and clear feedback from the sector as to the benefits of an independent agency.
Regulators	In the long-term improved integrity systems should mean improved behaviours, greater compliance and fewer serious issues requiring attention from the regulator.	Medium	Low  Based on assumptions, no good evidence available.
Others (eg, wider govt, consumers, etc.)	Increased confidence that integrity issues will be dealt with effectively expected to help increase participation. Consequent benefits for health and wellbeing of the population and social cohesion.	Medium	Low  Evidence as to positive impacts of participation is based on strong evidence from a range of New Zealand and international sources.  No strong evidence that poor integrity systems negatively impact on participation or vice versa. Based on assumptions about how people respond to negative/positive experiences.
<b>Total monetised benefits</b>		None	NA
<b>Non-monetised benefits</b>		Medium to high	Low to medium

65. We are reasonably confident as to the range of additional costs to government of progressing with the preferred option. The level of certainty as to the exact cost of the new entity is expected to increase with the additional policy work on phase two of this project.

66. At this stage, before the further work to determine the full range of functions of the new entity, it is not possible to be confident as to the scale of the benefits likely to accrue from establishing the new entity. However, we consider that sufficient evidence to warrant establishing a new entity has been provided as to the problem and the nature of the necessary solution from:

- an analysis of the numerous investigations and reviews over recent years
- the comprehensive and consistent feedback to the IWG from the sector
- an analysis of the serious nature of many of the matters coming through the Sport and Recreation Complaints and Mediation Service – these include

allegations of misconduct, sexual harassment, racial and disability discrimination, allegations of assault, issues of trauma and abuse including historic allegations involving children, athlete wellbeing and health and safety issues.

## Section 3: Delivering an option

### How will the new arrangements be implemented?

67. Phase two of the policy work will support a subsequent Cabinet paper that will seek final agreement to the establishment, form and functions of a new entity and detail as to implementation, both for government and the sport and recreation sector.
68. To oversee the work required to support phase two and subsequent implementation work, Sport NZ intends to appoint an Integrity Transition Committee (the Committee) to guide and oversee this work. The Committee will be established as a Sport NZ Board Committee, with members appointed by the Sport NZ Board, in consultation with the Minister for Sport and Recreation. To provide independence from Sport NZ, no current members of either the Sport NZ or HPSNZ Board will be appointed to the Committee. Members will be identified to ensure athlete/participant and wider sector representation.
69. The Committee will work alongside Sport NZ's policy team and the integrity project team to engage closely with the sector to ensure the interests of stakeholders are understood and considered in design. The Committee will report to the Sport NZ Board but will also have some direct reporting requirements to the Minister for Sport and Recreation.
70. The Committee will be complemented by a separate Māori Advisory Board that will ensure the next phase is undertaken in a bi-cultural manner. The Māori Advisory Group is intended to support Committee decision-making by ensuring a Māori representative view is presented. We envisage a small group (2 or 3 people) in addition to Māori representation on the Committee. We are waiting until the Māori representative is appointed onto the Committee before finalising the approach but envisage the Māori Advisory Group would be able to go direct to the Minister with any concerns about the transition process.

### How will the new arrangements be monitored, evaluated, and reviewed?

71. Without pre-empting the outcome of further policy work, we think it is likely that the Ministry for Culture and Heritage would be responsible for monitoring the performance of the new entity. We also think it is likely that the new entity will be established as an Independent Crown Entity. This assumption is partly based on the existing role of DFSNZ as an Independent Crown Entity, given the new entity would incorporate all of DFSNZ's functions.
72. It is envisaged that Sport NZ would have a role in assessing the effectiveness of system as a whole, working alongside the new entity. As this Cabinet paper seeks only an in-principle decision, further detail of the plans for monitoring, evaluation and review will be provided in the next Cabinet paper.

## Appendix

### Recent integrity reviews

Review/Action	Reviewer/Author	Date published	Commissioned by
Cycling Inquiry	Michael Heron QC (Dr Sarah Leberman, Jen Macky, Dr Lesley Nichol)	16 May 2022	Cycling NZ and Sport NZ
Review into Gymnastics	David Howman	February 2021	Gymnastics NZ
Feasibility Study into a Complaints Mechanism/and or Dispute Resolution Service for NZ	Simpson Grierson (Phillipa Muir and John Rooney)	September 2020	Sport NZ
Independent Review of Hockey	Maria Dew	February 2019	Hockey NZ
Sport Integrity Review	Public Consultation	October-December 2018 Released September 2019	Sport NZ
Elite Athletes Rights and Welfare	Stephen Cottrell	5 November 2018 date of Report 6 December press release	Sport NZ
Independent Review of Cycling New Zealand High Performance Programme	Michael Heron QC	12 October 2018 date of report 15 October press release	HPSNZ
Independent Review into NZ Football	Phillipa Muir	3 October 2018	NZ Football
Review of the Sports Tribunal of New Zealand	Don Mackinnon	November 2015	Sport NZ

### Sport Integrity Review key findings

These included:

- a. sports organisations are inconsistent in their handling of integrity issues
- b. harassment, bullying and abuse are a problem
- c. on-field behaviour is only a problem for a minority and side-line behaviour is probably less of a problem than media coverage might suggest

- d. use of Police vetting for those working with children and the use and implementation of key child protection infrastructure is inconsistent
- e. there is an undue emphasis on winning, and early specialisation and over-training are problems in many children's sports
- f. there is a case to increase funding for DFSNZ's education programme, and arguments that DFSNZ should be resourced to do more testing and investigation as well
- g. the risk of match-fixing is growing and/or already reasonably high
- h. compliance with the legal obligations of incorporated societies and sports charities is high but submitters don't trust the governance arrangements of their organisations to mitigate the risks of corruption.

#### *Actions taken by Sport New Zealand to address the recommendations of the Sport Integrity Review*

Some of the key actions taken since the Integrity Review are:

- a. Sport NZ's National Sports Organisation Capability Project which has included strengthening governance guidance and templates for the sector and the establishment of a Sector Chairs Group to lead and support the adoption of sustainable good governance
- b. Ongoing work to strengthen National Sport Organisations capability, including supporting partners through the provision of resources to raise capability across all integrity areas
- c. A series of webinars to increase awareness throughout the sector across all integrity areas (several completed and several planned)
- d. New child safeguarding approach launched in 2020
- e. Increased time limited funding for Drug Free Sport New Zealand of \$4.3 million over 3 years allocated in 2020 through the COVID-19 Recovery Package
- f. A suite of education e-learning modules, with more planned
- g. The new Sport NZ Integrity Community Portal launched in October 2020
- h. The addition of integrity related questions to the Sport NZ Voice of the Participant survey
- i. Piloting tools to protect high performance athletes in on-line environments.
- j. Increasing baseline funding to \$2.2 million per annum from July 2022, for all funded partners to acknowledge and support the work that partners are undertaking across all aspects of integrity.

#### *Findings from the Integrity Working Group*

Key themes from feedback as to the nature and extent of the current problem were as follows:

- a. The majority of organisations do not have capability or capacity to prevent integrity issues or deal with complaints efficiently and there is lack of trust in their ability to handle issues objectively
- b. Some sports organisations like New Zealand Rugby and New Zealand Cricket feel they are dealing with integrity effectively
- c. For many, there is a perceived lack of trust in the ability of Sport NZ to act objectively and independently in addressing integrity issues given its close working and funding relationship with national sports organisations and the wider sector:
  - a. Athlete/participant groups reported reluctance to raise issues with Sport New Zealand and High-Performance Sport New Zealand fearing that it might lead to a

reduction in funding. This was especially the case within the high-performance environment.

- b. Although it was acknowledged that the SRCMS was operating independently from Sport New Zealand, the perception given Sport NZ's contractual relationship with this service meant that there was still a strong sense of mistrust within the athlete community.
- d. Use and adoption of integrity resources provided by Sport NZ remains voluntary.
- e. There is a significant gap in how the regulatory system in New Zealand is dealing with competition manipulation with no "ownership" by any agency, with competition manipulation being a serious issue in New Zealand and internationally.

The IWG's conclusions were that:

- a. The current system is not viewed as athlete and participant centred and trust is lacking. While Sport NZ has started a project in this area, it is in its infancy and there is little to suggest athletes and participants are at the centre of the system and involved in the design of education, training and dispute resolution.
- b. The current integrity system is complex and lacks accessibility for participants with respect to the resolution of integrity issues. An issue such as an allegation of harassment by a young athlete against a coach could involve multiple agencies, with effective resolution entirely dependent on the relevant sport organisation having the appropriate mechanisms in place. The newly established SRCMS, while offering promise, is consent based, has no decision-making role and cannot enforce any outcome.
- c. The current system lacks clear integrity standards. While Sport NZ has issued very good resources, there is no requirement to adopt these, and take-up is mixed. There is also no National Code of Sport Integrity of minimum standards resulting in a lack of consistency across the sector.
- d. There is a very strong view in the sector that independence is lacking both when sport and recreation are facing their own integrity issues and when Sport NZ and HPSNZ become involved because of their close relationship with organisations as a funder and provider of support. IWG believes that the perceived lack of independence is an actual lack of independence. The SRCMS has a degree of independence but this is tempered by the fact it is contracted and monitored by Sport New Zealand.
- e. The current system appears to lead to significant costs across the sector when integrity issues arise, both financial and human because of the ineffectiveness of the current mechanism. In the most serious of cases, it has required commissioning of major investigations and reviews at substantial cost to the sector. Survivors of integrity breaches have talked to the personal harm they have endured.