

# SPORT INTEGRITY REVIEW

## FINDINGS AND RECOMMENDATIONS

—  
SEPTEMBER 2019

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# EXECUTIVE SUMMARY

## KEY FINDINGS AND RECOMMENDATIONS

1. This report details Sport NZ's findings from public consultation on the Sport Integrity Review discussion document undertaken from 31 October 2018 to 11 December 2018.
2. This report accompanies the Sport Integrity Review summary of submissions and analyses what submitters said, sets out the findings from this analysis and makes a total of 22 recommendations designed to address the key issues identified by submitters.
3. We believe the successful implementation of these recommendations is key to the continued protection and enhancement of the integrity of sport in New Zealand.
4. The recommendations include a mix of improvements and enhancements to existing institutions and mechanisms designed to uphold and protect the integrity of sport, in addition to the introduction of some new ones.
5. While there are numerous findings specific to each of the six areas we consulted on, the key overall finding from the analysis is that there is a lack of capability across the sports sector to deal with integrity related issues, particularly in relation to the reporting and management of sports integrity related complaints.
6. Sports organisations, particularly smaller organisations, are struggling to keep up with what is an increasingly complex and multi-dimensional area.
7. It is important to note however that the consultation did not raise any significant integrity-related issues we were not already aware of through the research undertaken during the development of the discussion document.
8. While the majority of recommendations relate to one or two areas within the sport integrity landscape, there are two principal recommendations that we believe will have the biggest impact, across all areas of sport integrity. These are:
  - a. the piloting of an independent sports complaints management service; and
  - b. the establishment of a central online repository for sport integrity guidance.

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## WHERE TO NEXT?

9. The recommendations contained in this report are wide-ranging and ambitious, but they represent what Sport NZ believes needs to be done to protect and enhance the integrity of sport in New Zealand.
10. Work is well underway on a number of recommendations, with some recommendations seeking to build on successful projects or programmes already in place such as Sport NZ's "Balance is Better" initiative, the recently announced statement of intent from Sport NZ and five major NSOs to change the approach to youth sport, Sport NZ's coach and parent education programmes, Aktive's "Good Sports" programme and Sport NZ's NSO Capability Project.
  - II. The remaining recommendations need to be prioritised, costed and phased for successful implementation. We intend to do this in conjunction with the sector, by seeking input from all our key partner organisations, not only in sport, but also in the active recreation and play areas.
12. Sport NZ is working in close alignment with High Performance Sport NZ as they continue to implement the recommendations from recent reviews of high performance sports (eg, the Cottrell, Heron and Dew reviews) and develop the High Performance 2032 Strategy.

# RECOMMENDATIONS

The 22 recommendations from Phase One of the Sport Integrity review are listed below. While the structure of this document mirrors that of the discussion document, as a number of recommendations relate to multiple chapters of the discussion document, they have been grouped into the following categories:

**DISPUTE RESOLUTION  
AND REPORTING**

**PARTNER CAPABILITY  
AND COMPLIANCE**

**EDUCATION**

**RESOURCES AND TOOLS**

**POLICY**

**ENFORCEMENT**

# 01

## DISPUTE REPORTING AND RESOLUTION

- Pilot an independent sports complaints management service.
- Investigate whether a sports mediation service should be established.
- Explore whether New Zealand should establish a domestic appeal body from the Sports Tribunal to provide an alternative to the Court of Arbitration for Sport.
- Amend the Sports Anti-Doping Act 2006 to allow for the Sports Tribunal to have more members.
- Encourage New Zealand Rugby to use the Sports Tribunal to ensure consistency across all sports.

# 02

## PARTNER CAPABILITY AND COMPLIANCE

- Strengthen NSO capability in governance and finance through Sport NZ's NSO Capability Project.
- Investigate options for ensuring all sports organisations have a child protection officer and a child protection policy in place.

# 03

## EDUCATION

- Explore whether Sport NZ's parent and coach education workstreams could contribute more to child safeguarding.
- Formally evaluate existing sideline behaviour programmes with a view to expand the initiative(s) that work best.
- Increase Drug Free Sport New Zealand's education programme.
- Explore the demand for a government-provided match-fixing education programme and national reporting point for match-fixing intelligence.

# 04

## RESOURCES AND TOOLS

- Investigate the establishment of a central online repository for sport integrity guidance and resources, similar to Australia's Play by the Rules website.
- Update Sport NZ's Safe Sport for Children guidance to reflect legislative amendments since it was initially drafted and any other changes required.
- Include integrity-related questions in Sport NZ's annual Voice of the Participant survey to gain a better understanding of participants' views on the integrity of sport in New Zealand and the impact of integrity-related issues on participation.

# 05

## POLICY

- Monitor developments with the proposed Police vetting reforms.
- Work with the sector to submit on the modernisation of the Charities Act.
- Monitor the Incorporated Societies Act reforms and provide guidance to the sector to help them meet their new obligations and update existing guidance as necessary.
- Work with DFSNZ and relevant regulatory agencies when the regulatory instruments governing sports foods and supplements are reviewed to ensure the views of the sport sector are considered.
- Consider whether NZ should become a signatory to the Convention on the Manipulation of Sports Competitions (the Macolin Convention).

# 06

## ENFORCEMENT

- Increase DFSNZ's resources for testing and intelligence, including exploring a pool of funding for drug testing at one-off events and a system for managing doping intelligence.
- Work with DFSNZ and the Ministry of Justice to explore the possibility of DFSNZ having the power to compel the production of information in certain circumstances.
- Continue to work with DFSNZ to advocate for greater flexibility in the sanctioning of lower level athletes who are found guilty of anti-doping rule violations.

# BACKGROUND

## FIVE SECTIONS

This chapter of the document contains five sections covering:

- the definition of sport integrity;
- the rationale for the Sport Integrity Review;
- Sport NZ's role in relation to the integrity of sport;
- the process followed to this point; and
- principles guiding our analysis.

## WHAT IS SPORT INTEGRITY?

1. The Australian Sports Commission provides a useful definition of sport integrity:<sup>1</sup>

*A sport that displays integrity can often be recognised as honest and genuine in its dealings, championing good sportsmanship, providing safe, fair and inclusive environments for all involved. It will be also expected to 'play by the rules' that are defined by its code. A sport that generally displays integrity has a level of community confidence, trust and support behind them.*

2. Therefore, threats to sport integrity:

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

3. While there is no universally agreed definition of sport integrity, we have scoped our review to cover six areas:

- a. **Member protection** – protecting those who engage in sport from bullying, harassment, abuse, undue health and safety risks, and other harm
- b. **Integrity issues in children's sport** – protecting children from abuse, avoiding the negative effects of an undue focus on winning, and considering the changing environment within secondary school sport
- c. **Anti-doping** – the use of prohibited substances (colloquially referred to as performance and image enhancing drugs) in contravention of the World Anti-Doping Code<sup>2</sup>
- d. **Protecting against corruption** – fraud, bribery, bid rigging and other dishonest behaviours intended to achieve personal gain
- e. **Protecting against match-fixing** – action to inappropriately predetermine the result of a match, or part of a match, for gambling purposes.
- f. **Organisational culture, whistleblowing and the institutional arrangements for sport integrity in New Zealand** – themes that cut across the other five areas above.

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

<sup>2</sup> The World Anti-Doping Code is implemented in New Zealand via the Sports Anti-Doping Rules made by Drug Free Sport New Zealand.

## THE RATIONALE FOR THE REVIEW

4. There are several reasons that it is timely to review New Zealand's sport integrity arrangements.
5. First, it is important that integrity issues do not discourage New Zealanders from accessing the many benefits that participation in sport can provide. Sport creates happier, healthier people, better connected communities and a stronger New Zealand.<sup>3</sup> For example, Sport NZ research shows:
  - a. 92 percent of New Zealanders believe being active helps keep them physically fit and healthy
  - b. 84 percent believe essential life skills are learned playing sport, e.g. team work and cooperation
  - c. 73 percent agree that sport and physical activity help build vibrant and strong communities
  - d. sports clubs and groups are the most common social group or club for new migrants
  - e. 83 percent believe high performance sport contributes to our national pride and identity.<sup>4</sup>
6. Second, sport integrity is vital to:
  - a. New Zealand's reputation for being corruption-free
  - b. ensure funds are not diverted away from sport through corrupt means
  - c. maintain public interest and confidence in participating in sport (so that the many benefits of sport and physical activity can be realised)
  - d. maintain public interest in sport, and thereby the commercial viability of sport
  - e. promote fundamental features of sport such as fair play.
7. Third, large-scale international breaches of sport integrity are well known, e.g. systemic doping of the Russian Olympic team, widespread doping in professional cycling, high-profile match-fixing scandals in cricket, allegations of corruption of senior officials within the Fédération Internationale de Football Association (FIFA) and International Olympic Committee (IOC), etc.
8. Fourth, issues can occur in New Zealand from time to time. For example, there have been instances of child sexual abuse within sport, poor sideline behaviour, doping, and at least one verified match-fixing attempt within New Zealand sport.<sup>5</sup>
9. Fifth, some of the risks and conditions that lead to sport integrity breaches overseas also exist in New Zealand. For example, international match-fixing experts think New Zealand is prone to match-fixing attempts, as set out in the discussion document.
10. Sixth, some of our "like-minded" jurisdictions have recently taken action on sport integrity. For example, Australia recently undertook a broad review which recommended the establishment of a National Sport Integrity Commission with a broad remit.<sup>6</sup>
- II. It is clear from the work that Sport NZ has already undertaken that there are various perspectives on which integrity issues should be considered priority areas for further work. Hence a broad review was needed to develop a strategic approach to tackling these issues.

<sup>3</sup> <https://sportnz.org.nz/news-and-events/media-releases-and-updates/articles/value-of-sport>

<sup>4</sup> <https://sportnz.org.nz/assets/Uploads/The-Value-of-Sport-print-ready-booklet-page-by-page-March-2018.pdf>

<sup>5</sup> For the avoidance of doubt, horse and greyhound racing is outside the scope of Sport NZ's remit and the Sport Integrity Review.

<sup>6</sup> <https://www1.health.gov.au/internet/main/publishing.nsf/Content/the-review-of-australias-sports-integrity-arrangements>



## THE ROLE OF SPORT NZ

12. Sport NZ is the lead government agency for sport and physical recreation. It is a Crown entity established by the Sport and Recreation New Zealand Act 2002. Under the Act, NZ's purpose is to "promote, encourage, and support physical recreation and sport in New Zealand".
13. Sport integrity is intrinsically linked to this as breaches can discourage participation. Sport NZ is also responsible for High Performance Sport NZ, a wholly-owned subsidiary of Sport NZ which focusses on the high-performance sport system.
14. Sport NZ believes in the right of everyone to participate in a safe and fair way. Any behaviour that creates a negative experience or has a negative impact on participation or engagement with sport is concerning.
15. Sport NZ's functions are set out in section 8 of the Sport and Recreation New Zealand Act and are as follows:
  - a. develop and implement national policies and strategies for physical recreation and sport
  - b. allocate funds to organisations and regional bodies in line with its policies and strategies
  - c. promote and advocate the importance of participation in physical activity by all New Zealanders for their health and well-being
  - d. promote and disseminate research relevant to physical recreation and sport
  - e. provide advice to the Minister on issues relating to physical recreation and sport
  - f. promote and support the development and implementation of physical recreation and sport in a way that is culturally appropriate to Māori
  - g. encourage participation in physical recreation and sport by Pacific peoples, women, older New Zealanders, and people with disabilities
  - h. recognise the role of physical recreation and sport in the rehabilitation of people with disabilities
  - i. facilitate the resolution of disputes between persons or organisations involved in physical recreation and sport
  - j. work with schools, regional, central, and local government, and physical recreation and sports organisations to ensure the maintenance and development of the physical and organisational infrastructure for physical recreation and sport
  - k. work with health, education, and other agencies to promote greater participation in physical recreation and sport through policy development, advocacy, and support, in line with the objectives of the New Zealand health strategy
  - l. provide advice and support for organisations working in physical recreation and sport at national, regional, and local levels
  - m. facilitate co-ordination between national, regional, and local physical recreation and sport organisations
  - n. represent the Government's policy interests in physical recreation and sport internationally.
16. This review, and its findings and recommendations, reflect several of these functions.

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17. It is also important to note that Sport NZ was not established to be a regulator or an enforcement agency. It does not have jurisdiction to investigate alleged wrongdoing within sports organisations beyond the limited scope provided in relationship (funding) agreements.
  18. Sport NZ's functions are mainly aimed at Sport NZ assisting the sector through the provision of investment, guidance and the development of policies.

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## THE PROCESS FOLLOWED TO THIS POINT

19. Sport NZ's Board approved the terms of reference for the review in March 2018.
20. The Sport Integrity Review is being conducted in two phases to reflect the very broad nature of the areas covered. Phase one involves assessing the current environment, identifying priority areas where current policies and protections may be insufficient, and gathering evidence to support future interventions. Phase one also includes both targeted and public consultation. Phase two will develop solutions to problems within priority areas. This document represents the conclusion to phase one.
21. This report follows public consultation through a discussion document. To prepare the discussion document Sport NZ undertook:
  - a. desktop research on the areas considered within the discussion document to familiarise ourselves with relevant laws, policies, data, research and initiatives in New Zealand and abroad
  - b. targeted consultation with key stakeholders to inform the drafting of the discussion document, including:
    - i. 17 government bodies<sup>7</sup>
    - ii. four regional sports trusts (RSTs)<sup>8</sup>
    - iii. 17 national sport organisations (NSOs)<sup>9</sup>
    - iv. the New Zealand Olympic Committee (NZOC) and Paralympics New Zealand
    - v. four regional sport organisations (RSOs)<sup>10</sup>
    - vi. four sports clubs<sup>11</sup>
    - vii. five players associations (that collectively comprise the New Zealand Athletes Federation)<sup>12</sup>
    - viii. 12 individuals and other organisations with specialist knowledge, e.g. sports law or sports medicine<sup>13</sup>
    - ix. four other relevant bodies.<sup>14</sup>

<sup>7</sup> Accident Compensation Corporation; Department of Internal Affairs; Drug Free Sport NZ; High Performance Sport New Zealand; Human Rights Commission; Ministry for Culture and Heritage; Ministry for Primary Industries; Ministry of Business, Innovation and Employment; Ministry of Health (including Medsafe); Ministry of Justice; New Zealand Customs Service; New Zealand Police; New Zealand Racing Board; Oranga Tamariki; Serious Fraud Office; State Services Commission; and WorkSafe.

<sup>8</sup> Aktive, Sport Gisborne Tairāwhiti, Sport Wellington, Sport Otago.

<sup>9</sup> New Zealand Rugby League, New Zealand Cricket, New Zealand Rugby, Gymnastics New Zealand, Swimming New Zealand, New Zealand Football, Athletics New Zealand, Netball New Zealand, Basketball New Zealand, Tennis New Zealand, Diving New Zealand, Badminton New Zealand, New Zealand American Football Association, Baseball New Zealand, Olympic Weightlifting New Zealand, New Zealand Golf, Yachting New Zealand.

<sup>10</sup> Swimming Wellington, Capital Football, Wellington Cricket, Central Districts Cricket.

<sup>11</sup> Wanderers Cricket Club, Poneke Rugby, Christchurch Squash, Miramar Rangers.

<sup>12</sup> New Zealand Cricket Players Association, New Zealand Hockey Players Association, New Zealand Professional Footballers Association, New Zealand Rugby Players Association.

<sup>13</sup> David Howman, Maria Clarke, Nigel Stirling, Mark Copeland, Ben Sandford, David Gerrard, Rob Pelosi, Don McKinnon, Peter Downs, Steph Dyhrberg, Richard Gordon, Transparency International.

<sup>14</sup> New Zealand Drug Foundation, Netsafe, Racing Integrity Unit, New Zealand Secondary Schools Sports Council.

22. Sport NZ consulted on the Sport Integrity Review discussion document for six weeks in late 2018 (31 October to 11 December). The consultation attracted 330 submissions, comprising:
  - a. 296 submissions through the online survey tool; and
  - b. 34 through other sources – email, post, or hand delivery.
23. In this report, submissions are generally summarised and discussed in two parts: (i) survey submissions, and (ii) submissions received from other sources. This is for two main reasons:
  - a. Survey submitters faced closed questions, where their answers were selected from multi-choice options, often with an additional opportunity to comment on their answers. Other submitters were not limited by this format and could thereby provide more nuanced answers.
  - b. Submitters through other sources were more identifiable and included significant actors in the sport system.
24. Included in the 34 submissions received through other sources were submissions from a number of Sport NZ's key stakeholders. This included a submissions from the NSO Leadership Group (representing 24 NSOs and Paralympics NZ), five individual NSOs, Drug Free Sport NZ (DFSNZ), the New Zealand Olympic Committee, two regional sports trusts, three secondary school sports organisations and a number of other organisations with an interest in sport and the integrity of sport.
25. We believe the submissions received via both the online survey tool and via other sources provide a good representation of views across the sport sector.
26. Elite athlete rights and welfare were considered in a separate work stream and are not considered in this report.

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## **SPORT INTEGRITY THREAT ASSESSMENTS**

27. In recent months, Sport NZ has been working with NZ Police, a representative from the Australian Criminal Intelligence Commission (ACIC) and the relevant NSOs to assess the threat level to the integrity of eight major sports – rugby, rugby league, football, netball, tennis, badminton, cricket and basketball.
28. We have applied a methodology developed by the ACIC that has been used to undertake similar assessments in relation to Australian sports. As with the public consultation, this exercise has not identified any major integrity issues we were not already aware of, however it has been invaluable in raising our awareness and understanding (and that of the NSOs involved) of the nature and extent of the threats to sport integrity, particularly in relation to match-fixing, doping and corruption.
29. The findings from these threat assessments have been taken into consideration in the development of our Phase I recommendations.

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## PRINCIPLES GUIDING OUR ANALYSIS

30. The following principles have guided our analysis:
- a. Individuals and organisations within the sport sector are subject to the “general” law (e.g. criminal and civil law). Sport NZ should not seek to duplicate legal mechanisms or obligations that already exist under the general law.
  - b. Sport NZ should not seek to duplicate functions or roles already undertaken by other government agencies.
  - c. Most NSOs and sports clubs are incorporated societies and, as such, should be governed by the following principles:
    - i. incorporated societies are organisations with members who have the primary responsibility for holding the society to account
    - ii. incorporated societies are private bodies that should be self-governing and free from inappropriate government interference
    - iii. incorporated societies should not distribute profits or financial benefits directly to their members.<sup>15</sup>
  - d. Any proposal that would amend, or create new, legislation should be accompanied by robust supporting analysis (i.e. analysis against the government’s Impact Analysis Requirements).
  - e. Some sports organisations have obligations imposed on them by their International Sports Federation (as a condition of membership to the International Federation).

<sup>15</sup> These principles were originally identified by the Law Commission in its report *A New Act for Incorporated Societies (2013)* NZLC R129 at page 4. The principles were endorsed in the Government’s response to the Law Commission Report (<https://www.mbie.govt.nz/info-services/business/business-law/incorporated-societies/documents-images/Government-response.pdf>).

# 01

## ORGANISATIONAL CULTURE, WHISTLEBLOWING, AND THE INSTITUTIONAL ARRANGEMENTS FOR SPORT INTEGRITY

# KEY FINDINGS

## 01

### ORGANISATIONAL CULTURE IS UNDERMINING SPORT INTEGRITY

- 50% of survey respondents said organisational culture was undermining sport integrity “a great deal” or “a lot”
- Responsibility for this sits broadly but with an emphasis on boards

## 02

### SUBMITTERS GENERALLY SAY THEY WILL REPORT INTEGRITY BREACHES RELATING TO DOPING TO DFSNZ

## 03

### SUBMITTERS GENERALLY SAY THEY WILL REPORT INTEGRITY BREACHES RELATING TO CRIMINAL ACTIVITY TO POLICE AND OTHER ENFORCEMENT AGENCIES

## 04

### THE MAJORITY OF SPORT ORGANISATIONS STRUGGLE TO HANDLE INTEGRITY ISSUES CORRECTLY

- When asked if their sport had mechanisms for reporting integrity breaches, 17% of survey submitters said “no” and 47% didn’t know
- When asked if they trust their sport to handle integrity breaches, 66% said “no” or “I don’t know”
- Only 30% of survey submitters said their sport has written policies

## 05

### VIEWS ON THE INSTITUTIONAL ARRANGEMENTS FOR SPORT INTEGRITY VARY

- However, many request an independent reporting channel, investigation body and dispute resolution body
- They note small organisations lack resources, current roles are duplicated or unclear, independence is essential, and a central body could develop a useful body of knowledge
- Generally, there is demand for the government to be more active in monitoring the sector/ providing oversight

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## THE CURRENT INSTITUTIONAL ARRANGEMENTS FOR SPORT INTEGRITY CONTAIN GAPS

1. Survey submitters were relatively ambivalent about the institutional arrangements for sport integrity. Over 53 percent of survey submitters said they did not know if New Zealand's institutional arrangements for sport integrity had gaps, or created problems or risks. In contrast, nearly 38 percent of survey submitters did think there were problems and risks and 40 percent thought there were gaps. Twelve submitters through other means highlighted issues with the institutional arrangements for sport integrity.
2. Submitters argued the main problem, risk or gap in the current institutional arrangements for sport integrity in New Zealand is the lack of an independent channel for reporting, investigation and dispute resolution. Submitters argued this is needed because:
  - a. Smaller NSOs lack the resources to offer these services themselves
  - b. Recent events in the high performance environment show athletes need a body to turn to
  - c. A centralised body could develop specialised knowledge (e.g. in dispute resolution, integrity education) not currently held in every NSO
  - d. Current arrangements are convoluted, with the roles and responsibilities of the relevant organisations unclear
  - e. Policies, processes and effort in addressing sport integrity risks and problems are currently duplicated across organisations
  - f. New Zealand is inexperienced with illegal activity in sport but the risks are real and rising.
3. A number of submitters supported the formation of a new government body with a mandate to lead initiatives to counter risks to sport integrity. The body would provide an independent channel for reporting issues and having them investigated and resolved. This would increase transparency, fairness and impartiality, allow for proper information management, alleviate the burden on less-resourced NSOs, and protect anonymity where appropriate.
4. The current institutional arrangements were presented in a table in the discussion document, reproduced below.

## OV TABLE I: OVERVIEW OF NEW ZEALAND'S SPORT INTEGRITY INSTITUTIONAL ARRANGEMENTS

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

5. Over 92 percent of submitters across all sources thought central government should have a substantial role in addressing any gaps in the institutional arrangements for sport integrity. The main options suggested by submitters for further central government involvement were:
  - a. provide an avenue for complaints to be raised
  - b. check legislative requirements are being met
  - c. establish a dedicated sport integrity agency
  - d. continue providing advice to sport organisations through active mentoring and/or guidance and templates
  - e. continue to provide stewardship through policies and regulation.



## AN OVERVIEW OF PROPOSED NEW INSTITUTIONAL ARRANGEMENTS FOR SPORT INTEGRITY

6. The key recommendations in this paper to strengthen New Zealand's overall sport integrity infrastructure are:
  - a. Establish a central online repository for guidance on sport integrity matters, similar to Australia's Play by the Rules website and develop greater direct links with clubs and other organisations below NSO-level by creating and maintaining a database of contacts in those organisations and using the database to promote new and existing guidance material that could strengthen capability.
  - b. Pilot an independent complaints management service for sport at all levels for a year (or up to a funding cap imposed by Sport NZ). Over that period we would:
    - i. collect data on the complaints being made
    - ii. ask Don Mackinnon to reconsider his recommendation for the establishment of a sport mediation service in light of developments in elite sport.

After the pilot period and investigation, we would be well placed to consider if a permanent complaints management system was needed and how it could look.
  - c. Explore the establishment of a government-funded match-fixing education programme and reporting point for match-fixing intelligence.
  - d. Increase resourcing for Drug Free Sport NZ's education programme and explore increasing resourcing for its other functions.
  - e. Require organisations receiving Sport NZ funding to have a child protection policy and a child protection officer listed on their website.
7. The proposed new institutional arrangements for sport integrity in New Zealand are set out in the table below. The red text shows where changes to the current arrangements are proposed.

## OV TABLE 2: OVERVIEW OF PROPOSED SPORT INTEGRITY INSTITUTIONAL ARRANGEMENTS

	Anti-doping	Match-fixing	Corruption	Member protection	Children's sport
<b>Policy</b>	Set by the World Anti-Doping Code (which New Zealand works to influence).	The Ministry of Justice administers the Crimes Act. Sport NZ led development of the New Zealand Policy on Sports Match-Fixing and Related Corruption.	The Ministry of Justice administers most of the legislation that directly targets corruption-style offences.	Criminal matters fall into a number of statutes. Sport organisations should have their own policies for sub-criminal matters.  <b>Sport NZ can help by providing an online repository.</b>	The Ministry of Justice and Oranga Tamariki administer relevant legislation. Sport organisations set their own child protection policies
<b>Enforcement (including handling complaints / allegations)</b>	DFSNZ undertakes testing and investigations. Cases are brought to the Sports Tribunal and NZ Rugby Judicial Committee where evidence of anti-doping rule violations is found.  <b>Aim to increase DFSNZ capacity for testing and intelligence over time.</b>  <b>Aim to dissolve the NZR Judicial Committee over time.</b>	NZ Police enforce the criminal provisions in the Crimes Act. NSOs and international federations will have their own sport-specific penalties	NZ Police and the Serious Fraud Office.	Sport organisations should be able to enforce their own policies for subcriminal matters.  <b>However, it is recommend piloting a new complaints management service while a sport mediation service is investigated, with a view to have a permanent institution eventually if the pilot and investigation show one is needed.</b>	NZ Police for criminal matters. Oranga Tamariki should be contacted where a child is believed to be in danger. Sport organisations should enforce their child protection policies. Police vetting and criminal record checking is available.  <b>A more efficient Police vetting service is planned.</b>
<b>Reporting</b>	DFSNZ has refreshed its whistleblowing approach. This should be supported with resources for intelligence collection.	Establish a reporting point in the proposed match-fixing educator.	The Police and Crimestoppers, but potentially the match-fixing educator's functions could be broadened to educate on other financial crime in sport.	<b>New, complaints management service pilot.</b>	Oranga Tamariki and the Police for serious incidents. <b>The new complaints management service pilot could also play a role.</b>
<b>Education</b>	As per the current arrangements, although with DFSNZ being resourced to play a greater role.	<b>We propose a new, government-funded match-fixing educator be established.</b>	Sport NZ provides resources to help sport organisations achieve robust, transparent governance. <b>These resources could be collected and presented in a centralised repository. The proposed match-fixing educator could also educate on how to spot other financial crime in sport.</b>	<b>Sport NZ guidance should be collected and presented in a centralised repository.</b>	<b>Sport organisations need to set their expectations.</b>  <b>Sport NZ guidance should be collected and presented in a centralised repository.</b>

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## AN OVERVIEW OF PROPOSED NEW INSTITUTIONAL ARRANGEMENTS FOR SPORT INTEGRITY

8. The suite of recommendations directly addresses the concerns of submitters set out above. For example:
  - a. The online repository of guidance should help NSOs have the confidence to handle issues effectively. If they still feel they need help, they can direct participants to the complaints management service.
  - b. The complaints management service could handle complaints from the high performance environment. It offers an independent and experienced reporting line and resolution service.
  - c. The recommendations directly utilise specialist knowledge. The complaints management service can be sourced from an experienced disputes resolution provider. DFSNZ will continue to build on its specialist knowledge of doping. Agencies enforcing criminal law will continue to do so. With this package of institutions experience does not need to be built as it exists already.
  - d. The package of institutions has clear roles and responsibilities for each organisation.
  - e. Sport organisations are required to continue to have their own policies. However, the central online repository should generate consistency between sports. The new formal institutions fill gaps in the existing infrastructure meaning there is no duplication of functions.
  - f. The new functions relating to match-fixing (and potentially other financial crime in sport) show New Zealand is taking serious steps to mitigate the risk to sport and our national reputation for being free of corruption.
9. This package of initiatives also targets most of the roles submitters expect central government to play. For example:
  - a. There is a clear avenue for complaints to be raised about matters not covered by existing infrastructure (DFSNZ, Police, etc).
  - b. The government will continue providing advice to sport organisations through having a central repository for guidance and templates and a database of sport organisation contacts to enable direct communication.
  - c. The government will continue to provide stewardship through policies and regulation.
  - d. Crown organisations will continue to monitor compliance with, and enforce, legislation.
10. Further comment on these initiatives is provided in the relevant chapters of this report.

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**We do not believe there is a need for a dedicated sport integrity agency at this stage**

- II. Of the aforementioned roles submitters argued central government should play there is one suggestion that this report does not recommend: establishing a dedicated sport integrity agency encompassing all facets of sport integrity. This is for several reasons:
- a. Sport NZ is firmly of the view that form should be considered secondary to function in this work stream. Once the functional units are agreed (e.g. a complaints management service, a match-fixing educator, etc), their location can be determined. Conceivably, new functions could be added to existing organisations in addition to their existing functions. This is to be discussed with the sport sector and the organisations that may expand.
  - b. Functions in the sector are currently split across a number of organisations. There is benefit in leaving existing functions with the organisations currently tasked with fulfilling them. These organisations have statutory responsibilities and institutional subject expertise which is best preserved. This suggests the final arrangements for sport integrity will have some degree of fragmentation.
  - c. New Zealand does not face the difficulties some countries like Australia face in having law enforcement split across state/territory and Commonwealth government. In a small country like New Zealand, where central government organisations handle most matters, coordination across organisations can be achieved through secondments, memoranda of understanding, and open communication channels.
  - d. We understand the benefit to the population of having one gateway to all the government's sport integrity infrastructure. However, we also think there can be some separation of functions without making the environment convoluted for stakeholders.

## WHISTLEBLOWING AND REPORTING

### Submitters generally say they will report to DFSNZ

12. Over 90 percent of survey submitters said they “definitely would” or “probably would” report integrity breaches relating to doping to DFSNZ. Of the nine email submissions, all were willing to report integrity breaches relating to doping.

### Submitters generally say they will report criminal activity

13. Over 86 percent of survey submitters said they “definitely would” or “probably would” report integrity breaches relating to criminal activity to the Police and other enforcement agencies. Email submitters reinforced that the sport sector is willing to report criminal activity but had some uncertainty over whether some incidents were worth reporting.

### There is no independent avenue for reporting other integrity matters

14. The discussion document outlined some reporting mechanisms used to report a range of integrity matters. For example:
  - a. NZ Rugby operates an independent complaints management service which will consider any complaints of inappropriate or objectionable behaviour from anyone in rugby
  - b. Footballers anywhere in the world, including New Zealand, can use the Red Button app to report information relating to match-fixing
  - c. Integrity matters in the racing industry are managed by the Racing Integrity Unit
  - d. The International Centre for Sport Security launched a Sport Integrity Hotline to help anyone involved in sport at any level, anywhere in the world to report misconduct and sport integrity issues.
15. These avenues exist in conjunction with the well-established avenues for reporting information relating to criminal activity and doping.
16. For sub-criminal activity such as bullying and harassment, reporting lines in many sports are not available. Participants are faced with the options of not reporting incidents, or reporting them to leadership who may be complicit in the behaviour. This can risk negative consequences for those reporting integrity breaches, e.g. reduced playing time, isolation within the team, etc.
17. Under 37 percent of survey submitters said their sports had mechanisms for reporting integrity breaches. A submission from 24 NSOs and Paralympics NZ noted the well-resourced NSOs had reporting mechanisms but less well-resourced NSOs were less likely to have mechanisms. Two individuals who felt they had unresolved issues with sporting organisations made submissions saying their organisations had policies around reporting (and incident management) but they were either unclear or unpublished.
18. A complaints management service for sport will provide an independent avenue for raising complaints. Sport NZ will be interested in the data it generates over the pilot period. This will be an important input in any decision to continue with a complaints management service after the pilot period.

## HANDLING INTEGRITY MATTERS

19. Given the variable practice in providing independent reporting mechanisms to manage integrity breaches, it is perhaps not surprising that confidence in the ability of sport organisations is lacking.
20. Only 34 percent of survey submitters said they trusted their sport to handle integrity breaches appropriately and effectively. Email submitters were split on the matter.
21. Similarly, only 30 percent of survey submitters said their sport organisation had a written policy on how to handle integrity breaches. Again, email submissions on this matter were split but generally suggested organisations with more resources were more likely to have the infrastructure to handle complaints successfully.
22. The submission from 24 NSOs and Paralympics NZ said the quality of the handling of integrity breaches depended on the quality of the communication, relationships and board in an NSO. DFSNZ submitted that it was unclear how well sports are handling issues with the policies they have in place currently. However, what is clear is that this is not their core business and many sports do not have sufficient financial resources or personnel to prioritise and/or have relevant up-to-date experience in this area.

## ORGANISATIONAL CULTURE INFLUENCES INTEGRITY

23. The consultation confirmed what we suspected: that organisational culture can undermine integrity within a sports organisation. Fifty percent of survey submitters said organisational culture was undermining integrity within the organisations they were involved with either “a great deal” or “a lot”. Email submitters reinforced the potential for negative culture to have a negative impact on sport integrity. The discussion document provides examples of integrity problems that can be enabled by negative organisational culture, including heavy drinking, playing through the pain, arguing with officials, doping and child abuse.

### Organisational culture is everyone’s responsibility, but especially that of leaders

24. Survey submitters were asked who should be responsible for establishing a healthy organisational culture within a sport or sport organisation. The results are presented below. Submitters were able to select multiple answers.

## OV TABLE 3: SURVEY RESPONSES TO OV3

Parents/ caregivers	Coaches	Administrators	Spectators	Athletes	Sport or recreation organisations	Sport NZ	Other
68	85	87	47	69	78	69	38

## HANDLING INTEGRITY MATTERS

25. Of the 38 submitters who selected 'Other', there were two major themes in their comments:
  - a. everyone is responsible
  - b. establishing a healthy organisational culture is a 'top-down' responsibility.
26. This is reflected in the survey results having a broad, relatively equal distribution of answers, as well as the fact that 'administrators' and 'sport and recreation organisations' rated first and third.
27. Ten submitters answered this question through other means. These submitters generally suggested responsibility for organisational culture within sport organisations started at "the top" but various actors further down in the system were noted as having a role to play.
28. Sport NZ agrees that leaders have the greatest role to play in establishing or improving organisational culture. Organisational culture is ultimately defined by what behaviours are allowed within an organisation and which behaviours are banned. Leaders have the most influence over this. However, we also acknowledge that an established culture can influence the type of leadership that is possible.

### How can organisational culture be improved?

29. The above has two implications for improving organisational culture:
  - a. it makes sense to focus efforts to improve culture on leaders
  - b. Sport NZ can play a direct role in improving the culture across sport in New Zealand by providing guidance on acceptable behaviour and infrastructure to resolve unacceptable behaviour.
30. The suite of recommendations discussed above and throughout this document target the second point.
31. As a direct response to the first point, Sport NZ has worked with BoardWorks International to produce The Board's Role in Organisational Culture, a guidance document for boards of sports organisations that sets out:
  - a. why organisational culture is important
  - b. some practical steps for boards and committees to maintain the required ownership and oversight of this important area of governance.
32. The Board's Role in Organisational Culture was promoted to stakeholders through the Partner Update of April 2019 and is available on Sport NZ's website.<sup>16</sup> Sport NZ will monitor views and downloads of the document, as well as any feedback it receives related to it, and consider further promotional activity and amendments as necessary.

<sup>16</sup> <https://sportnz.org.nz/assets/Uploads/Boards-Role-in-Organisational-Culture6.pdf>

# 02

## MEMBER PROTECTION



# KEY FINDINGS

## 01

### THE RULES SEEM TO MITIGATE THE RISKS OF SPORT APPROPRIATELY

- 87% of survey submitters say the rules are unnecessarily endangering participants “a little” or “not at all”
- Problems generally stem from poor enforcement of the rules
- Evidence suggests that injuries do not dissuade people from being active

## 04

### SOCIAL MEDIA IS GENERATING SOME HARM IN SPORT BUT HARM IS LIMITED AND THIS SHOULD BE A LOW PRIORITY FOR SPORT NZ

- 78% of survey submitters experienced no harm through social media and sport

## 06

### SIDELINE BEHAVIOUR IS PROBABLY LESS OF A PROBLEM THAN FIRST THOUGHT

- 27% of survey submitters say it is a problem to “a great deal” or “a lot”
- Males are perhaps slightly more aware of sideline behaviour problems
- Email submissions suggest incidents occur but are isolated
- 70% of survey submitters and seven email submitters say they’ve seen organisations make an effort to improve sideline behaviour but there is no data on the success of these initiatives

## 02

### ON-FIELD BEHAVIOUR IS ONLY A PROBLEM FOR A MINORITY

- 58% of survey submitters say it is a problem “a little” or “not at all”
- Various measures are in place across sports, e.g. red cards

## 05

### ABUSES OF POWER ARE COMMON

- 71% of survey submitters and 90% of email submitters say they have seen abuses of power in sport
- Only 10% of survey submitters say “all” the sport organisations they’re involved with have policies to mitigate abuses of power
- Only 15% of survey submitters say they trust “all” the sport organisations they’re involved with to handle these issues well. Women are less trusting than men
- 67% of survey submitters want sport organisations to handle abuses of power where they are not illegal

## 07

### GENERALLY REASONABLE CONFIDENCE THAT ORGANISATIONS MEET THEIR OBLIGATIONS UNDER THE HEALTH AND SAFETY AT WORK ACT BUT LITTLE TRAINING PROVIDED

## 03

### HARASSMENT, BULLYING AND ABUSE ARE A PROBLEM AND SPORTS ARE STRUGGLING TO MANAGE THESE ISSUES WITH THEIR CURRENT RESOURCES

- When asked to what extent these behaviours are a problem, 41% said a great deal” or “a lot”, compared with 45% who said “a little” or “not at all”
- Email submitters documented a range of problems of this nature
- Women are more likely to find these problems than men
- Only 14% of survey submitters said “all” sports organisations they were involved with could handle these issues
- 54% of survey submitters say policies exist but those who have used these policies had negative experiences. Women were less likely to want to use policies again

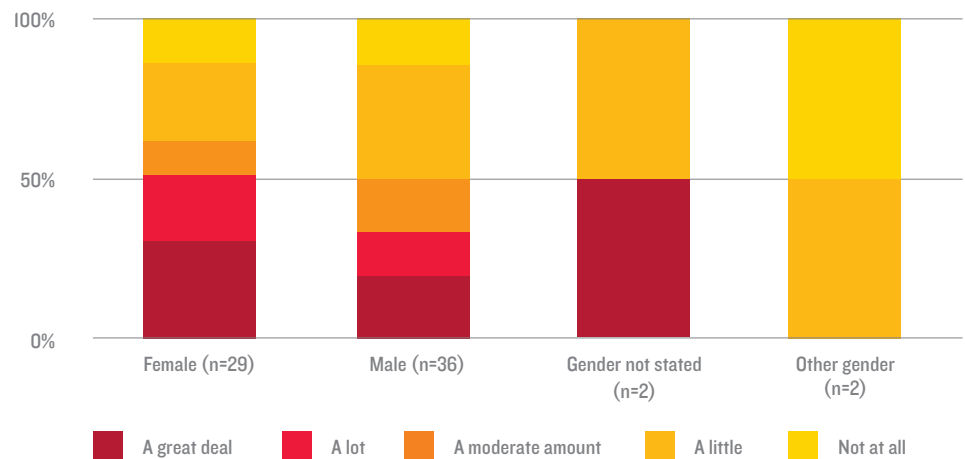
## THE CASE FOR PILOTING A DISPUTE RESOLUTION / COMPLAINTS MANAGEMENT BODY

1. We have found that:
  - a. harassment, bullying, abuse and abuses of power are a problem in sports; and
  - b. the specific actions that comprise these behaviours are not illegal so standard avenues of redress for criminal activity do not exist.
2. The previous chapter concluded that this was a gap in the institutional arrangements for sport integrity. Therefore, we propose piloting an independent sports complaints management service for all levels of sport, from high performance to grass roots.

### Harassment, bullying and abuse in sport

3. When asked to what extent these behaviours are a problem in sport, 41 percent of survey submitters said to “a great deal” or “a lot”. This is slightly below the 45 percent of survey submitters who said these behaviours are “a little” problem, or “not (a problem) at all”.
4. When the dataset is analysed by gender, it suggests women are more likely to consider harassment, bullying and abuse to be bigger problems within sports organisations than men.

## FIGURE MPI: TO WHAT EXTENT ARE HARASSMENT, BULLYING AND ABUSE PROBLEMS IN THE SPORT ORGANISATIONS YOU ARE INVOLVED WITH?



5. Submitters from all sources provided a very wide range of examples of harassment, bullying and abuse in sport. These examples included bullying by coaches putting junior players off sport, international examples of sexual abuse in European football, findings from an international survey showing 71% of New Zealanders believe youth team sport is not safe for people of minority sexualities, racial and gender discrimination and abuse of players on social media.

### Abuses of power are common in sport

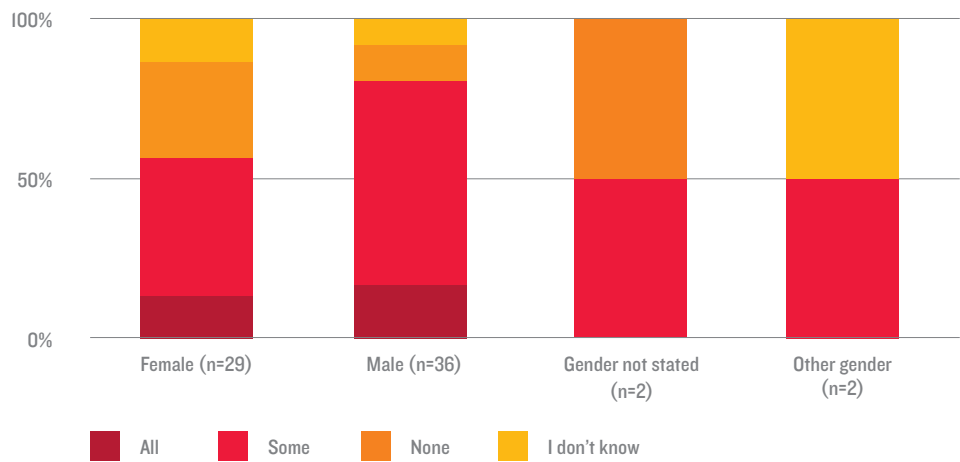
6. Over 70 percent of survey submitters had witnessed abuses of power in the sport organisations they are involved with. Examples were provided of powerful members of sport organisations exercising undue influence on selection, bullying, and furthering their own agendas.

**SPORTS ORGANISATIONS ARE STRUGGLING TO HANDLE INCIDENTS RELATING TO THESE ISSUES**

**Harassment, bullying and abuse**

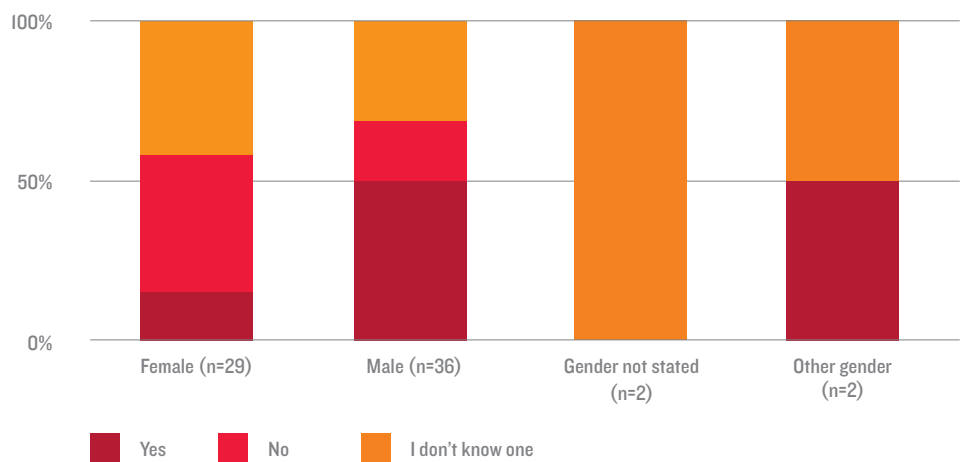
7. Only 14 percent of survey submitters thought “all” the sports organisations they were involved with were willing and able to handle bullying, harassment and abuse incidents when they arose. Women were less likely than men to have confidence in sports organisations to handle such incidents.

**FIGURE MP2: ARE THE SPORT ORGANISATIONS YOU ARE INVOLVED WITH WILLING AND ABLE TO HANDLE BULLYING, HARASSMENT AND ABUSE WHEN THEY ARISE?**



8. Under 55 percent of survey submitters said their sport organisations had policies, processes or systems in place to mitigate bullying, harassment and abuse. However only 32 percent of those that had used these policies, processes or systems said they were willing to use them again. This figure was much lower for women.

**FIGURE MP3: IF YOU HAVE USED THESE POLICIES, PROCESSES OR SYSTEMS WOULD YOU USE THEM AGAIN?**

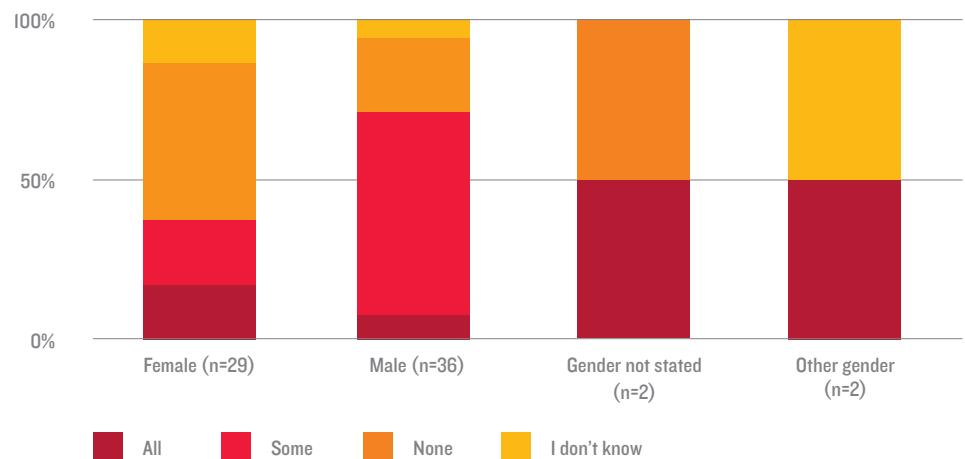


9. Nearly 67 percent of submitters who had not used the policies, processes or systems their sport organisations had to mitigate bullying, harassment and abuse said they were willing to. In comparison, only 6 percent of survey submitters said they were unwilling to use these mechanisms if they had not used them before.

### Abuses of power

- IO. Similarly, submissions on abuses of power did not instil confidence in the ability of sport organisations to mitigate these issues.
- II. Only 10 percent of survey submitters said “all” the sport organisations they are involved with had mechanisms in place to prevent and mitigate abuses of power. This probably contributes to the lack of trust many submitters had in sport organisations to handle the negative consequences of abuses of power appropriately and effectively. Only 15 percent of survey submitters said they trusted “all” the sport organisations they were involved with in this way. The dataset was analysed by gender, and the results suggest that females may have less trust in the ability of their sports organisations to appropriately and effectively handle the negative consequences of abuses of power.

**FIGURE MP4:  
DO YOU TRUST THE  
SPORT ORGANISATIONS  
YOU ARE INVOLVED  
WITH TO HANDLE  
THE NEGATIVE  
CONSEQUENCES OF  
ABUSES OF POWER  
APPROPRIATELY AND  
EFFECTIVELY?**



### Very little was received from submitters in relation to gender or racial issues

12. Two submitters commented on women experiencing harassment in sport. One submitter said that their daughter was the subject of inappropriate contact from her coach (unspecified). When pursued, it was discovered that the club involved was aware of other similar incidents and had swept them away. Another submitter commented that women coaches can be ignored, talked over or challenged by other coaches and parents.
13. No comments were received on bullying, harassment or abuse in sport being racially motivated.
14. Sport NZ does not consider the low amount of reports of issues relating to women to be conclusive evidence that women do not face challenges within sport.

## A SPORTS MEDIATION SERVICE COULD RESOLVE DISPUTES

15. Don Mackinnon reviewed the Sports Tribunal, reporting in November 2015. His recommendations included:<sup>17</sup>

*A sports mediation service (SMS) should be established for disputes before the Tribunal and also for disputes at a broader national level. The Tribunal's rules should be amended to actively promote mediation in all cases excluding anti-doping, and should insist that the parties proceed to mediation in all such cases unless good reasons exist for this not to occur.*

and

*Before the SMS is created, it may be prudent for Sport NZ to establish a working party to actively scope the work to be performed by SMS, and to explore, amongst other things, funding options. Any working party should include at least one independent mediator with demonstrated skills in this area and potentially also a representative of the Athletes Federation, as the system will need to be "athlete friendly" and achieve their buy in. Inevitably though, for the SMS to succeed, it will require significant support from Sport NZ.*

16. Sport NZ intends to ask Mr Mackinnon to review his recommendations in light of recent events in elite sport and the reports by Cottrell,<sup>18</sup> Muir,<sup>19</sup> Heron<sup>20</sup> and Dew.<sup>21</sup> If Mr Mackinnon finds a sports mediation service could have helped resolve disputes and avoid incidents such as those recently investigated Sport NZ would consider implementing such a service.

## THESE ISSUES ALSO SUGGEST A DEDICATED GUIDANCE WEBSITE WOULD BE USEFUL

17. Over 67 percent of survey submitters believed sport organisations should deal with behaviour that is negative but not illegal, e.g. bullying, harassment and abuse. The comments – and the feedback outlined above – show that sport organisations need help with this.
18. An independent sports complaints management service does not really fulfil this role. It acts as a backstop once it is clear an organisation cannot handle an issue. Further, sport has traditionally been run without significant government intervention.
19. To help sport organisations handle integrity issues without invoking third party-assisted resolution we propose to establish a dedicated website for sport integrity guidance. The website will be modelled on Australia's *Play by the Rules* website.<sup>22</sup> It will act as a one stop shop for guidance across all areas of sport integrity. Currently, guidance exists across multiple platforms but is fragmented and hard to find. The proposed guidance website will simplify and demystify the process for finding advice on handling sport integrity issues and having appropriate policies ready before they even arise.

<sup>17</sup> <http://www.sportstribunal.org.nz/assets/Uploads/A-Review-of-the-Sports-Tribunal-of-New-Zealand-2016.pdf>

<sup>18</sup> <https://sportnz.org.nz/assets/Uploads/Elite-Athlete-Right-and-Welfare.pdf>

<sup>19</sup> <https://sportnz.org.nz/assets/Football-Public-Report-Findings-and-Recommendations.pdf>

<sup>20</sup> <https://hpsnz.org.nz/content/uploads/2018/10/CNZ-Review-Final.pdf>

<sup>21</sup> <https://www.newshub.co.nz/home/sport/2019/02/hockey-new-zealand-releases-damning-findings-of-independent-review.html>

<sup>22</sup> <https://www.playbytherules.net.au/> We considered joining the coalition of parties that fund Play by the Rules but ultimately thought the legislative differences between New Zealand and Australia necessitated New Zealand having its own website.

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20. Data provided by *Play by the Rules* shows it has had a positive impact on sport in Australia. For example, a 2015 survey found that *Play by the Rules*:
- a. met the needs of 89 percent of respondents
  - b. increased the understanding of the benefits of having a safe, fair and inclusive sporting environment for all people for 87 percent of respondents
  - c. gave greater confidence to 87 percent of respondents for making clubs more safe, fair and inclusive
  - d. improved the preparedness to deal with issues that impact on safe sport for 83 percent of respondents
  - e. helped build the capacity of organisations to be safer for 76 percent of respondents
  - f. helped organisations associated with 67 percent of respondents take steps to become safer.
21. The most common suggestions from the same evaluation were:
- a. improve the marketing of *Play by the Rules* so more people know about it
  - b. add more courses and printable resources
  - c. provide more emails and updates.
22. It seems users cannot get enough of *Play by the Rules* because it is having a real, positive impact on Australian sport. We hope to emulate this effectiveness in New Zealand.

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## OTHER ISSUES THAT COULD BE HELPED BY A COMPLAINTS MANAGEMENT SERVICE

23. There are three other member protection issues that could cause complaints or disputes but that merit specific attention:
- a. on-field behaviour
  - b. social media
  - c. sideline behaviour.
24. Each is considered below.

### **On-field behaviour**

25. Almost 58 percent of survey submitters said on-field behaviour was either “a little” problem or “not at all” a problem in their sports. While issues do arise from time to time, they are generally well managed by match officials (e.g. with penalties, red cards, etc) and, more generally, organisations have Codes of Conduct and similar documents to set expectations. Many submitters suggested coaches and others on the sidelines had a role to play in improving on-field behaviour. Coach and parent education is considered in the section on integrity issues in children’s sport below.
26. While an on-field incident could conceivably be referred to a complaints management or dispute resolution service, the likelihood of this seems low given the other mechanisms in place for managing such incidents.

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## Social media and sport

27. Nearly 78 percent of survey submitters reported they had not experienced harm as a result of using social media in relation to sports. Only 21 percent of survey submitters reported that they had experienced harm. The harm reported generally related to negative comments written online, although at least one instance of unwelcome photos being uploaded was provided to us.
28. Nearly 84 percent of survey submitters said sport organisations need a social media policy. This was generally supported by the NSOs and RSTs that submitted through other means. However, only 16 percent of survey submitters said all the sport organisations they are involved with had a social media policy and only 13 percent of survey submitters said it was effective in preventing harm.<sup>23</sup>
29. In time, Sport NZ will provide guidance for sport organisations to use when developing social media policies. This will be uploaded to the dedicated guidance website. Complaints arising from social media use relating to sport could conceivably be raised with the independent complaints management service but only if a resolution could not be sought through Netsafe (the operator of a free service for people in New Zealand to help with online bullying, harassment and abuse established under the Harmful Digital Communications Act) or the Police.
30. The Harmful Digital Communications Act 2015 introduced a civil regime and criminal offences to tackle online bullying, harassment and other forms of abuse and intimidation. Netsafe operates the civil regime and can provide advice on how to remedy a situation. Netsafe can use persuasion, mediation and negotiation to help parties reach a resolution. The Police will handle criminal matters. If you are receiving harmful digital communications you are advised to contact Netsafe on 0508 NETSAFE (638 723), at [help@netsafe.org.nz](mailto:help@netsafe.org.nz), or through the website [www.netsafe.org.nz/report](http://www.netsafe.org.nz/report).

## Sideline behaviour

31. Sideline behaviour is an area where there is room for improvement. Submitters expressed a range of views. Some email submitters suggested there will be isolated incidents, but they considered it less of an issue than it is often portrayed to be. This was somewhat supported by survey submitters. Only 27 percent said it was a problem to the extent of “a great deal” or “a lot”.

<sup>23</sup> It is important to note that when survey submitters were asked if the sport organisations they were involved with had a social media policy only 11 said “all do” and 25 said “some do”. Despite only 36 people answering this question, 53 submitters then answered the question, “If so, is it effective in preventing harm?”. Therefore, some submitters must have answered the second question without answering the first.

- 
32. Over 70 percent of survey submitters said at least some of the organisations they are involved with had acted to improve sideline behaviour. We are aware of a number of initiatives including:
- a. Good Sports – a culture change initiative aiming to create positive sporting experiences for children by educating and supporting the key adult influencers in youth sport: parents and caregivers, coaches, teachers and sport administrators
  - b. the use of “duty umpires”, “team champions”, or similar, i.e. adults on the sideline appointed to monitor sideline behaviour
  - c. initiatives involving advertising, signage, flags, or other positive, visual messaging
  - d. APPLAUD – an NZ Rugby initiative to encourage schools and clubs to stamp out antisocial sideline behaviour
  - e. initiatives that give the referees or umpires the ability to impose a negative consequence or rating on unruly sideline participants.
33. No data was provided to us to demonstrate the impact these initiatives have had on sideline behaviour. Some data is available on the number of schools participating in an initiative, or the number of people trained by an initiative. However, the flow on impact on sideline behaviour has not been measured.
34. We therefore recommend that these initiatives be formally evaluated with a view to expanding the initiative or initiatives that work best.

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## **AREAS REQUIRING NO IMMEDIATE NEW ACTION FROM SPORT NZ**

35. The submissions suggested there were two areas within member protection where no immediate new action is required from Sport NZ. Specifically, the submissions suggested:
- a. the rules of sport generally mitigate the inherent physical risks appropriately
  - b. there is generally reasonable confidence that organisations meet their legal obligations in regard to health and safety.
36. Each is discussed below.

### **The rules of sport generally mitigate the inherent physical risks appropriately**

37. Submitters were asked to what extent the rules of their sport(s) were unnecessarily endangering participants. Of the 68 survey submitters on this question, 87 percent said “a little” or “not at all”.
38. Comments from survey submitters generally suggested that danger to participants only arose when the rules were not followed or applied correctly. Some comments on specific sports were received but most related to risks relating to inadequate warm up, quality of experience for younger participants, or avoiding overtraining (discussed in the following chapter). Some submitters also noted their sports were effectively risk-free in regard to health and safety.



39. Email submitters noted that many sports have processes and reviews in place to minimise issues such as injury, for example through continuous tweaking of the rules and equipment. Several submitters noted that some sports have put specific rules in place to mitigate the risk of injury, particularly head injury.
40. As noted in the discussion document, ACC has partnered with some of the larger sporting codes to produce SportSmart, an injury-prevention framework.<sup>24</sup> A prominent feature of SportSmart is the SportSmart Warm Up programme, which includes targeted warm up guidance for athletes playing rugby, netball, rugby league, football and touch. This aims to minimise the risk of injuries caused through inadequate warmups. SportSmart also contains guidance regarding concussion to help those involved in sport recognise concussion, and deal with a concussed player.
41. The discussion document also lists examples of initiatives taken by NSOs and international federations to mitigate the distinct health and safety risks of their sports.<sup>25</sup>
42. Ultimately, it seems sports are aware of their specific inherent risk areas and are taking steps to mitigate these risks. This is not surprising – participants understand there is risk in physical activity and sports have every incentive to protect their participants. When asked, submitters said coaches, administrators, athletes, sport organisations and parents had a greater role to play in ensuring safety on the field than Sport NZ. Therefore, it is proposed Sport NZ take no action at this time on this matter.
43. Of the sideline behaviour issues reported to us, many relate to coaches and parents placing too much pressure on child athletes and focusing too much on winning rather than participation. These issues are discussed in the next section, Integrity issues in children's sport.

### **Health and safety obligations**

44. Submitters generally told us:
  - a. the sport organisations they were involved with were aware of their obligations under the Health and Safety at Work Act
  - b. they were reasonably confident the sport organisations they were involved with met these obligations.
45. We are not aware of any evidence that sport organisations have difficulty meeting their legal obligations in regard to health and safety. Sport NZ will continue to offer an online course to help paid and volunteer workers in the sport and recreation sector but is not considering any additional action on health and safety at this time.<sup>26</sup> If there was demand for additional guidance on compliance with the Health and Safety at Work Act, we would consider adding this to the online guidance website.

<sup>24</sup> <https://accsportsmart.co.nz/>

<sup>25</sup> Examples include Athletics NZ's mitigation of the risk of thrown objects (javelin, discus, shot, hammer) on the field, World Rugby's institution of the Head Injury Assessment, NZ Rugby's requirement for coaches at under 14 level to complete a RugbySmart course, and NZ Cricket's helmet policy. More detail is on pages 28-29 of the discussion document: <https://sportnz.org.nz/assets/Sport-Integrity-Review/Sport-Integrity-Review-Discussion-Document-30-October-2018.pdf>

<sup>26</sup> <https://www.sporttutor.nz/pages/coursedescription.jsf?courseId=111641&catalogId=268432>

# 03

## INTEGRITY ISSUES IN CHILDREN'S SPORT

# KEY FINDINGS

## 01

### USE OF POLICE VETTING IS PATCHY

- 36% of survey submitters say “all” the sport organisations they’re involved with use police vetting for employees
- 17% of survey submitters say “all” the sport organisations they’re involved with use police vetting for volunteers

## 02

### USE OF CRIMINAL RECORD CHECKING IS PATCHY

- 19% of survey submitters say “all” the sport organisations they’re involved with use criminal record checking for employees
- 7% of survey submitters say “all” the sport organisations they’re involved with use criminal record checking for volunteers
- Email submissions reinforce the idea that both police vetting and criminal record checking is patchy
- Barriers are financial cost, time, not a legal requirement, duplication with school checks, etc
- Some submitters propose a volunteer accreditation scheme

## 03

### USE AND IMPLEMENTATION OF KEY CHILD PROTECTION INFRASTRUCTURE IS PATCHY

- 59% of survey submitters say their organisations have never done a risk assessment. Email submitters reinforce the variable approaches to risk assessment
- 18% of survey submitters said “all” the sport organisations they’re involved with have a child protection policy
- A reasonable amount of these child protection policies draw from Sport NZ’s Safe Sport for Children Guidance
- 27% of survey submissions say staff and 7% say volunteers “fully” or “most[ly]” trained to work with the full range of children
- Most NSOs have a child protection officer according to email submissions However, 74% of survey submitters said “no” or “I don’t know”

## 04

### TRUST IN HANDLING CHILD PROTECTION ISSUES IS LACKING

- Only 27% of survey submitters and 88% of email submitters are “extremely” or “very” confident their child protection officer and/or organisations’ leaders are able to handle a child protection issue
- 13% of survey submitters say “all” sport organisations have systems for handling child protection matters.
- 21% of survey submitters trust “all” the sport organisations they are involved with to handle these matters. 43% of survey submitters say they could escalate an issue effectively

## 05

### THERE IS REASONABLE CONFIDENCE THAT ORGANISATIONS MEET THEIR LEGAL OBLIGATIONS

- 70% of survey submitters and 86% of email submitters “always” or “usually” meet their legal obligations regarding children

## 06

### THERE IS AN UNDUE EMPHASIS ON WINNING IN CHILDREN’S SPORT

- 27% of survey submitters say it is a problem to “a great deal” or “a lot”
- Males are perhaps slightly more aware of sideline behaviour problems
- Email submissions suggest incidents occur but are isolated
- 70% of survey submitters and seven email submitters say they’ve seen organisations make an effort to improve sideline behaviour but there is no data on the success of these initiatives

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## 07

### **MOST COACHES OF CHILDREN'S SPORT RECEIVE SOME FORM OF TRAINING HOWEVER THIS COULD BE IMPROVED**

- More than half of survey submitters didn't know what training coaches receive or considered the training to be insufficient or non-existent. Email submissions were more positive

## 08

### **EARLY SPECIALISATION AND OVER-TRAINING ARE PROBLEMS IN MANY CHILDREN'S SPORTS**

- For two-thirds of survey submitters the extent of these problems was either "a great deal", "a lot" or "moderate". Email submitters agreed
- Children are expected to specialise and train more at an increasingly young age, with considerable overlap between winter and summer sports
- The onus is on adults involved in children's sport (parents, coaches, administrators) to address these problems

## 09

### **INCREASING PROFESSIONALISATION/ COMMERCIALISATION, IDENTITY FORECLOSURE, EARLY SPECIALISATION AND OVERUSE INJURY, BURNOUT, DISAFFECTION AND DROPOUT ARE ALL PROBLEMS IN SECONDARY SCHOOL SPORT AND ARE DISCOURAGING PARTICIPATION IN SECONDARY SCHOOL SPORT**

# PART A: PROTECTING CHILDREN FROM ABUSE

1. This section of the discussion document focussed on the safety of children in sport and was structured around the areas covered by Safe Sport for Children, Sport NZ's guidance document on child protection, which include:
  - a. Police vetting and criminal record checking
  - b. risk assessments
  - c. child protection policies
  - d. education and training for adults working with children
  - e. child protection officers
  - f. responding to harm and supporting children and families that have been harmed.
2. Part A also discussed the legislation that protects against the abuse of children, including the Children's Act 2014 (previously the Vulnerable Children Act), the Crimes Act 1961 and the Oranga Tamariki Act 1989 (previously the Children, Young Persons, and Their Families Act 1989).

## POLICE VETTING AND CRIMINAL RECORD CHECKING

### Use of these initiatives is patchy

3. Safe Sport for Children recommends that sport and recreation providers undertake Police vetting for all staff and volunteers engaged to work with children as part of their recruitment process.<sup>27</sup>
4. However, just over 36 percent of survey submitters said "all" the sport organisations they are involved with use Police vetting for employees. Around 17 percent of survey submitters said the same for volunteers. Email submissions from NSOs, educators, RSTs, child protection experts and others reinforced the idea that practices varied throughout the sector.
5. Criminal record checking is less common. Only 19 percent of survey submitters said "all" the sport organisations they are involved with use criminal record checking for employees. Around 7 percent of survey submitters said the same for volunteers. Email submissions reinforced that practices varied throughout the sector.
6. The main barriers to greater use of these initiatives are:
  - a. cost, in terms of finance and time
  - b. the fact that organisations are not legally required to use these checks
  - c. duplication of effort, in that schools require vetting and/or checking.
7. Submissions from RSTs advocated for a national volunteer accreditation scheme. This would reduce the cost of having the same people Police vetted multiple times (for multiple sports) and would also help vulnerable adults (as well as children). Two submitters argued a national sex offender register would support the volunteer accreditation scheme.

<sup>27</sup> <https://sportnz.org.nz/assets/Uploads/attachments/managing-sport/young-people/Safe-Sport-for-Children.pdf>

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### The Government is considering changing the regime for Police vetting

8. At the time of writing, it is expected the Government will consider policy proposals relating to Police vetting, including amendments to the Policing Act 2008 to establish a statutory framework for the New Zealand Police Vetting Service. Amendments will clarify the purpose, functions and processes of the Police Vetting Service, including access to the Service, requirements for consent, and the criteria for determining what information can be released in a Police vet. Amendments may also provide for future efficiencies including enabling individuals to view their Police vet prior to its release, the sharing of Police vets, and maintaining the validity of Police vets.
9. Some proposals are particularly relevant as they address the barriers to using Police vetting identified through the review.
10. It is proposed that a Police vet be able to be accessed by more than one agency or individual with the consent of the vetting subject in cases where the vetting subject is intending to undertake the same or a very similar role for different agencies or individuals. Sharing would:
  - a. be instigated by the vetting subject
  - b. be via the Police Vetting Service
  - c. require the role for which the Police vet is being sought to relate to the purpose of the Police Vetting Service
  - d. for agencies, require them to meet the criteria for approval to access the Police Vetting Service (i.e. they would need to be an 'approved agency').
11. It is also proposed that Police be able to maintain the validity of Police vets on a more widespread basis than at present. Currently, Police can maintain the validity of Police vets under the Children's Act 2014 and for the New Zealand Transport Agency.
12. An online authorisation system will need to be outlined in regulations. This will include the responsibility of vetting subjects to keep delegations up to date. The cost recovery implications of this new service are yet to be worked through.
13. These proposals are directly relevant to sport, as they would allow a single Police vet to be accessed by multiple sport organisations. This could reduce costs for the sport sector (money, time, effort) and thereby encourage uptake of a background checking mechanism.

### **It is recommended that Sport NZ monitors the progress of these changes**

14. Police vets are significantly more detailed than the criminal record checks. They provide a greater indication of an individual's suitability for a role. Theoretically, there should be nothing on a criminal record check that is not also on a Police vet. Therefore, if the sport sector has efficient access to the Police Vetting Service it has access to the most important background checking system.
15. Submitters recognised the value of the Police Vetting Service. However, some submitters also noted it was of limited value as:
  - a. it only provided a record of information held by Police
  - b. it was "only as good as the day it was issued"
  - c. it was less effective in mitigating the risk to children in sport than ongoing vigilance and effective risk management from adults in an organisation.
16. Given that useful changes are proposed and submitters have said that other mechanisms for reducing risk to children are more important it is recommended Sport NZ support the changes Police are planning.

## **IMPLEMENTATION OF KEY CHILD PROTECTION INITIATIVES AND HANDLING OF CHILD PROTECTION ISSUES**

### **The majority of sport organisations have either not implemented key child protection initiatives or have only implemented them in part**

17. Sport NZ's Safe Sport for Children sets out a number of key initiatives sport organisations should implement to remove and/or minimise any risks of, and opportunities for, harm to children. These initiatives include risk assessments, child protection policies, training and education of staff and volunteers and appointing a child protection officer.
18. Survey results show that these recommended initiatives are not been consistently implemented by sport organisations throughout New Zealand.
19. Over 59 percent of survey submitters said their sport organisation had never done a risk assessment with regard to safeguarding children. While submitters were not specifically asked why a risk assessment had not been completed, some submitters noted their sport organisation lacked sufficient resources.
20. Only 18 percent of survey submitters said "all" the sport organisations they were involved with had a child protection policy in place, with 36 percent saying "some" do. Sport NZ's Safe Sport for Children contains a child protection policy template, however only 28 percent of survey submitters said "all" or "some" of their sport organisations use this template.
21. With regards to the education and training of staff and volunteers in the area of child protection, implementation similarly varies across sport organisations:
  - a. Only 27 percent of survey submitters said staff were "fully" or "mostly" trained to work with the full range of children, with 23 percent receiving no training.
  - b. Only 7 percent of volunteers were "fully" or "mostly" trained to work with the full range of children that participate in sport, with 39 percent receiving no training.

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22. Nearly 74 percent of survey submitters said their sport organisations did not have a child protection officer (or someone responsible for child protection issues) or did not know if their sport organisations had one. Only 6 percent of submitters said “all” their sport organisations have a child protection officer or someone responsible for child protection issues.
  23. Of those survey submitters involved with organisations that do have a child protection officer, only 23 percent said their role was well-publicised within the organisation.
  24. Email submissions reinforced the idea that use of these safeguarding initiatives varied through the sport sector, with NSOs and RSTs more likely to use these initiatives, particularly those that are better resourced. Very few email submissions indicated that child protection training was mandatory for staff and volunteers.

### **Sport organisations may not be able to handle child protection issues when they arise**

25. Given the above, it is not surprising submitters lack confidence and trust in sport organisations ability to handle to handle child protection issues effectively. For example, the survey showed:
  - a. only 27 percent of survey submitters were “extremely” or “very” confident in their child protection officer and/or sport organisations’ leaders to handle a child protection issue
  - b. only 13 percent of survey submitters said “all” the sport organisations they were involved with have systems for handling child protection matters
  - c. only 21 percent of survey submitters said they could trust “all” the sport organisations they were involved with to handle child protection matters
  - d. only 43 percent of survey submitters said they knew who to contact if a child protection issue needed to be escalated beyond their sport organisation to the appropriate authorities.
26. Again, email submitters were predominantly more professional NSOs and RSTs and correspondingly suggested they were more likely to have processes and procedures for handling these matters effectively, with one NSO actively working to continue the expansion of child protection officers to those clubs that do not currently have one in place.



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**Sport NZ should work with the sector to increase implementation of key child protection initiatives and ensure child protection issues are handled correctly when they arise**

27. The results of our consultation suggest there is much room for improvement in the area of child protection. Ensuring the safety of all children participating in sport is of critical importance and Sport NZ plays a key role in achieving this by providing guidance and support to the sector and working with other government agencies with an interest in child protection.
28. It is not clear if sport organisations are generally failing to implement these initiatives, generally failing to publicise their implementation of these initiatives, or both. Either way, the risk to children from inaction, or unpublicised action, is similar.
29. The fact that only 25% of survey submitters said they were not aware of any child protection issues within the last five years in their sport organisations shows that these issues are common and more needs to be done.
30. The comment of one NSO in their email submission that they probably have a 10 year work programme ahead of them to bring all 500 clubs under their NSO up to best practice in this area gives an indication of the task sport organisations, NSOs in particular, are facing and the importance of support and guidance from Sport NZ to the sector.
31. A reasonable amount of child protection policies draw from Sport NZ's Safe Sport for Children guidance. A number of suggestions for additional areas to be included in Safe Sport for Children were received, including guidance on:
  - a. overnight stays and billeting
  - b. reporting suspected child abuse occurring outside of sport (eg, at home)
  - c. bullying
  - d. emotional harm and mental health
  - e. working with and training volunteers.
32. While most email submitters were aware of Safe Sport for Children, over 60% of survey submitters were not aware of it prior to completing the survey. Those who are aware of it and have used it find it useful which suggests it should be kept but improved and better promoted.
33. It is therefore recommended that Safe Sport for Children is reviewed and updated. We know the guidance at least needs to be amended to reflect recent legislative changes such as the enactment of the Children's Act. It would be sensible to make any other changes deemed necessary at the same time and what additional content should be added based on the suggestions made by submitters. Sport NZ intends to work with the sector on this update to ensure it is fit for purpose.

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34. The guidance also needs to be promoted better to raise awareness of obligations and steps that should be taken to enhance an organisation's approach to child protection, particularly at the sub-NSO level. The logical avenue for doing so is the central online sport integrity repository recommended in this document, however targeted awareness campaigns will also be considered.
  35. While not an easy task, Sport NZ needs to ensure that all sport organisations have a child protection policy and child protection office in place. It is recommended that Sport NZ explores how it can ensure this is happening across the sector.
  36. The recommended establishment of an independent complaints mechanism should also help bring these issues to light and ensure they are investigated properly. Some submitters expressed their frustration at the way their attempts to raise child protections had been handled in the past.
  37. Lastly, it is also recommended that Sport NZ's existing parent and coach education workstreams are looked at to determine whether they could have a greater role in safeguarding to reduce the burden on sport organisations to deliver this training.

**There is reasonable confidence sport organisations meet their legal obligations in regard to safeguarding children**

38. Some sports organisations could have legal obligations under the Children's Act 2014, Crimes Act 1961 or Oranga Tamariki Act 1989. There appears to be reasonable awareness of those obligations, with over 70 percent of survey submitters and 100 percent of email submitters saying their sport organisations were either extremely aware, very aware or somewhat aware of its obligations.
39. In terms of meeting those obligations, over 70 percent of survey submitters and 83 percent of email submitters said their organisation "always" or "usually" fulfilled its obligations. Given the breadth of issues in this report, we suggest this is a reasonably strong result and propose no further work in this area, beyond updating Safe Sport for Children to reflect recent legislative changes and continuing to monitor and participate in future legislative developments. Greater promotion of Safe Sport for Children will further raise awareness of these legal obligations among sport organisations.

# PART B: THE RISKS OF PUTTING WINNING AHEAD OF PARTICIPATION AND FUN

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40. This section of the discussion document focussed on four key areas:
- a. whether there is an undue emphasis on winning in children's sport and if so, what is driving it
  - b. whether coaches are being trained to make sure children are having fun when participating in sport
  - c. the prevalence of early specialisation and over-training in children's sport
  - d. integrity issues in elite secondary sport, including increasing professionalisation and commercialisation, identity foreclosure, overuse injuries and burnout, disaffection and dropout.

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## THERE IS AN UNDUE EMPHASIS ON WINNING IN CHILDREN'S SPORT

41. When asked about the extent to which there is an undue emphasis on winning in children's sport in the sport organisations they or their children are involved with, close to 60 percent of survey submitters said "a great deal" or "a lot". Less than 20 percent said the extent of the undue emphasis on winning was either "a little" or "none at all".
42. Email submitters on this point, including a number of NSOs, generally agreed with survey submitters. While some NSOs have implemented programmes which appear to be having a positive impact, there was general agreement that there is no instant fix and it could take a generation to change, therefore continued promotion of messaging aimed at reversing the "win at all costs" attitude in children's sport is crucial.
43. While survey submitters identified a range of people they believe are driving this attitude, the majority of submitters said it was predominantly being driven by parents/ caregivers and coaches.

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## MOST COACHES RECEIVE SOME TRAINING BUT THIS COULD BE IMPROVED

44. Based on submissions, coaches of children receive training and induction in a wide variety of ways, however there appears to be no uniformity across children's coaches as to what they are being taught or how they are being taught.
45. More than half of survey submitters either didn't know what training coaches receive or considered the training to be insufficient or non-existent.
46. Email submissions on this topic were more positive, with a number of NSOs having formal training programmes in place for coaches within the sport, some of which include specific training on coaching children and ensuring they have a quality experience.

## EARLY SPECIALISATION AND OVER-TRAINING ARE PROBLEMS IN MANY CHILDREN'S SPORTS

### Early specialisation

47. When asked about the extent to which early specialisation is a problem in their sport, 43 percent of survey submitters said "a great deal" or "a lot". Only 33 percent of survey submitters said the extent to which early specialisation is a problem was either "a little" or "not at all".
48. The general feeling among submitters was that children are being pressured to specialise at an increasingly young age and that the traditional summer and winter seasons are increasingly overlapping, with some sports offering teams and competitions year-round and pressuring children to focus on one sport only.
49. Examples of academies and representative teams being established for children as young as eight are of particular concern and go against the messaging Sport NZ is trying to promote among the sport sector.
50. With regards to whose responsibility it is to avoid early specialisation, the majority of survey submitters said parents/caregivers and coaches primarily were responsible as they are the ones driving the behaviour.
51. In their email submissions, a number of NSOs agreed they have a role to play in educating participants about the detrimental effects of early specialisation and putting structures in place throughout the sport to avoid early specialisation.

### Over-training

52. Again, only one-third of survey submitters said the extent to which over-training was a problem in children's sport was either "a little" or "not at all". The remaining survey submitters said the extent of over-training was either "a great deal", "a lot" or "a moderate amount".
53. Submitters said children playing for multiple teams in one sport, eg school team and/or club team and/or representative team, meant their training load was amplified, which inevitably leads to injuries, some of which can have life-long consequences. Some submitters also noted that there seems to be a focus on quantity of training not quality.
54. Email submitters similarly said over-training was a significant problem in their sports. A number noted that medical practitioners were seeing an increasing number of teenagers with overuse injuries and again noted that top teenage athletes often play for multiple teams and can have training and/or games five or more days a week.
55. One submitter noted there is a misconception that to be the best at your sport you need to play and practice more of it but that is not necessarily the case.
56. Survey submitters believed the responsibility to avoid the over-training of young people rests primarily with parents/caregivers and coaches, with administrators, sport organisations and Sport NZ also having a role to play.
57. Email submitters for the most part said the responsibility lies with coaches and trainers, with NSOs having a responsibility to provide guidance as to best practice, noting that most overuse injuries happen in training rather than in competition. It was also noted that young players need to be encouraged to sit out when injured rather than feeling like they need to hide and play through injuries.

## THE INCREASING PROFESSIONALISATION AND COMMERCIALISATION OF ELITE SECONDARY SCHOOL SPORT (AND ASSOCIATED ISSUES) ARE OF MAJOR CONCERN

### Increasing professionalisation and commercialisation

58. Over 80 percent of survey submitters said the extent to which increasing professionalisation and commercialisation was a problem in elite secondary school sport was either “a great deal”, “a lot” or “a moderate amount”.
59. Two RSTs submitted that schools use sport as a marketing tool to attract students and that increasing professionalisation and commercialisation in elite secondary school sport was creating a divide between the haves and have nots. A number of other email submitters agreed and noted that increasing professionalisation and commercialisation had created a climate of win at all costs.
60. NZ Rugby said their 2017 Respect and Responsibility Review identified increasing professionalisation and commercialisation as growing issues in secondary school rugby and that they intend to address this.

### Identity foreclosure

61. Identity foreclosure is where a person comes to see themselves solely as an athlete in a particular sport rather than as a well-rounded person with a range of interests and potential career pathways outside of sport. If such an athlete is injured, hits their ceiling in their chosen sport, or retires, their whole sense of identity can be at risk, which can have a major impact on their wellbeing.
62. Over 75 percent of survey submitters said the extent to which identify foreclose is an issue in elite secondary school sport was either “a great deal”, “a lot”, or “a moderate amount”. Email submitters generally agreed.

### Early specialisation and overuse injury

63. Close to 85 percent of survey submitters said the extent to which early specialisation and overuse injuries were a problem in elite secondary school sport was either “a great deal”, “a lot” or “a moderate amount”.
64. Two RSTs in their email submissions said these were “significant” issues in elite secondary school sport and that current models push elite student athletes towards involvement in on sport only by creating year-round models that do not facilitate participation in other sports.

### Burnout, disaffection with sport and dropout

65. Over 75 percent of survey submitters said the extent to which burnout, disaffection with sport and dropout are problems in elite secondary school sport was either “a great deal” or “a lot”. Only 14 percent thought the extent to which these were problems was either “a little” or “not at all”.
66. Email submitters generally agreed. A number of NSOs said drop-out is caused by a range of factors, including early specialisation, pressure, injury, lack of enjoyment, bullying and negative social media.

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### **Responsibility for avoiding sport integrity issues in elite secondary school sport**

67. Survey submitters identified a wide range of groups with responsibility for avoiding sport integrity issues in elite secondary school sport. Parents/caregivers, coaches, administrators, teachers or school staff, sport or recreation organisations and Sport NZ were all identified by a large number of submitters as having responsibility.
68. A number of email submitters said the responsibility lies primarily with schools. While NSOs can have policies in place, the school is the entity that shares these with coaches and athletes and who responds to issues at the school level.

### **Integrity issues are discouraging participation in general sport and physical activity within secondary school sport**

69. Sport NZ research shows that the early secondary school years are marked by the highest participation rates in sport and physical activity across all age ranges. However, this decreased significantly for 15 to 17 year-olds, who participate less and in a smaller range of sports and activities.
70. Some of this drop off is attributable to simple factors. For example, part of the explanation is that physical education (PE) becomes optional after year 10. Other factors include the competing demands of academia, paid work, social lives and other activities. It appears integrity issues like the increasing professionalisation and commercialisation of elite secondary school sport is also having an impact on participation rates.
71. A little over 21 percent of survey submitters said the extent to which integrity issues were discouraging participation in sport and physical activity among secondary school students was either “a little” or “not at all”.
72. Email submitters also believe this is a problem, with a number suggesting the pressure to perform within secondary school sport and the focus on the elite side of secondary school sport is pushing young people away who want to play socially.

**ATTITUDES TOWARDS  
CHILDREN'S SPORT ARE  
STARTING TO CHANGE BUT  
THE RIGHT MESSAGING  
NEEDS GREATER PROMOTION**

73. There is a "win at all costs" attitude that has pervaded children's sport in New Zealand and around the world for a number of years now. This attitude is causing multiple integrity issues in children's sport, particularly in elite secondary school sport.
74. We know this attitude needs to change and believe it is starting to. Recent examples such as the removal of representative teams for those under 14 years of age in North Harbour rugby suggest that the tide is beginning to turn.
75. A number of submitters said that in addition to parents and coaches driving change, Sport NZ also has a responsibility. We agree, and we believe we need to work with the sector to ensure we are getting the right messaging out there and that it is accessible.
76. Sport NZ knows the focus needs to be on quality of experience so that children and young people become active for life. This is why Sport NZ and the country's five largest participation sports recently released a statement of intent to tackle the negative experiences that are driving too many young New Zealanders away from sport and bring the fun and development focus back to sport for all young people.
77. This includes pushing back against early specialisation, the over-emphasis on winning and other factors detailed above that are impacting negatively on participation rates in youth sport.
78. The six organisations will launch an integrated marketing campaign early in 2020, targeted at youth sport influencers such as parents, caregivers, coaches and administrators, to further raise awareness of the issues and help drive positive change.
79. Sport NZ and individual sports have a number of programmes already underway aimed at addressing the issues identified above and improving the quality of experience in children's sport, including secondary school sport.
80. Sport NZ has recently launched Balance is Better, a programme aimed at ensuring all kids receive quality experiences in sport and better prepare athletes to reach their future potential as senior athletes, by putting the needs of the participants and athletes first, stressing that:
  - a. childhood success does not reliably predict adult success
  - b. identifying athletes and specialising early is taking its toll on young people
  - c. a focus on development should be emphasised over winning.
81. A number of other great resources exist for coaches such as Aktive's Good Sports programme and on Sport Tutor, Sport NZ's online learning tool for the sports sector.
82. The challenge now is to build on the momentum to date by generating greater awareness of these resources – the online repository will help with this. A key aspect of the establishment of the repository will be looking at how it also integrates the non-Sport NZ resources out there.

# 04

## ANTI-DOPING



# KEY FINDINGS

## 01

### EDUCATION PROVIDES A VITAL DEFENCE AGAINST DOPING AND IS CRUCIAL FOR THE SECTOR'S UNDERSTANDING OF THE REGIME

- DFSNZ is already delivering record levels of education
- Feedback on DFSNZ's education offerings was generally positive
- Anti-doping education offers the best protection against several risk areas:
  - sub-elite athletes who currently face the same consequences as elite athletes
  - the risks of supplement use
  - the therapeutic use exemption regime which submitters argued was poorly understood
  - education to the medical community on the WADA regime.

## 02

### SUBMITTERS ARGUE DFSNZ SHOULD BE RESOURCED TO DO MORE TESTING AND INVESTIGATION

## 03

### DISCRETION WHEN SANCTIONING DOPERS SEEMS DESIRABLE

- Over 75% of survey respondents said low-level athletes and participants should be subject to the Sports Anti-Doping Rules.
- 52% of survey respondents supported less harsh sanctions being available for low-level athletes.

## 04

### DFSNZ SEEKS A PRODUCTION POWER

## 05

### EXPANDING THE MEMBERSHIP OF THE SPORTS TRIBUNAL WOULD MAKE IT EASIER TO CONVENE PANELS

## 06

### THE NEW ZEALAND RUGBY JUDICIAL COMMITTEE IS AN OUTLIER BUT NOT CURRENTLY CAUSING ANY MAJOR ISSUES

## 07

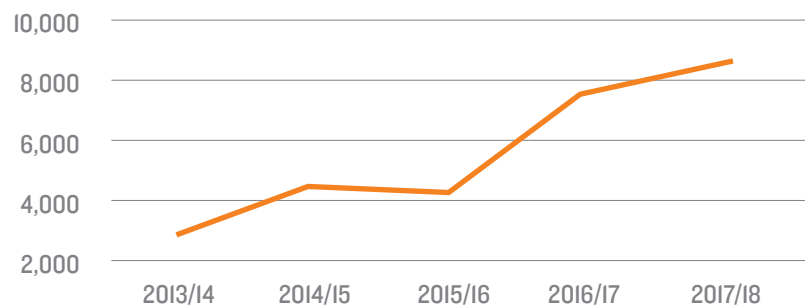
### SUBMITTERS CRITICISED THE COST OF TAKING CASES TO THE COURT OF ARBITRATION FOR SPORT AND ITS APPOINTMENT PROCESS

## THE CASE FOR INCREASING DFSNZ'S CAPACITY TO DELIVER ANTI-DOPING EDUCATION

### Overview: DFSNZ is delivering a record level of education

- I. DFSNZ delivers anti-doping education to athletes through a range of channels. For the year ended 30 June 2018:
  - a. a record of over 8,500 athletes and support personnel were educated via face-to-face seminars (see AD Figure I below)
  - b. 920 people completed e-learning
  - c. over 30,000 resources were distributed
  - d. 9,289 medication checks were facilitated via text and the DFSNZ website
  - e. DFSNZ ran 14 outreach programmes including the National 1st XV Final Series, NZ Secondary School Volleyball Championships, NZ Secondary School Athletics Championships, NZ Secondary School Condor Sevens Finals, and National Canoe Sprint Championships.<sup>28</sup>

### AD FIGURE I: IN PERSON EDUCATION SEMINAR ATTENDEES 2013-2018<sup>29</sup>



### Feedback on DFSNZ's education offerings was almost unanimously positive

2. Across all submission channels, sixteen submitters commented that the education was good. Specific comments included:
  - a. "Excellent. They are doing a great job"
  - b. "Informative and educational"
  - c. "Eye opening. More people need to hear it"
  - d. "Common sense and appropriate"
  - e. "Enlightening".
3. Two submitters said the education could be improved but noted it was "appropriate" or "improving" already.

<sup>28</sup> [https://drugfreesport.org.nz/uploads/site/assets/5-0\\_83091Q\\_DFSNZ\\_2018\\_Annual\\_Report\\_web2.pdf](https://drugfreesport.org.nz/uploads/site/assets/5-0_83091Q_DFSNZ_2018_Annual_Report_web2.pdf)

<sup>29</sup> Ibid.

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4. The two negative comments received can be directly addressed. One submitter commented that the education was “tedious”. Some of those we spoke to when we were preparing the discussion document said the same thing. DFSNZ has heard this feedback and is refreshing its face-to-face education programme and actively looking to make it more engaging. Another submitter said the education was ineffective because recreational athletes were not aware of their obligations. In Sport NZ’s opinion, this is a comment on the quantity of education DFSNZ can deliver with its current resourcing rather than the quality of the education offering.

### **Good Clean Sport – Youth**

5. In addition to seminars for elite and development athletes, DFSNZ also runs the Good Clean Sport programme. This programme, aimed at secondary school youths, reflects the international shift in anti-doping education toward a values-based approach to assist them in understanding their values as a foundation from which decisions are made.
6. In its second year of implementation, the Good Clean Sport – Youth programme has expanded its reach to over 2200 athletes in 88 secondary schools. The content used in these workshops is underpinned by current evidence and based on best practices which result in interactive, athlete-centred delivery methods. The feedback received on this values-based programme has been incredibly positive with many schools requesting DFSNZ workshops for consecutive years.<sup>30</sup>

### **Anti-doping education offers the best protection against several risk areas**

7. The value of education is reiterated in four areas within this review’s consideration of anti-doping. These areas include:
  - a. sub-elite athletes who currently face the same consequences as elite athletes for anti-doping rule violations but are less likely to be educated on their responsibilities
  - b. the risks of supplements (which can contain prohibited substances)
  - c. the TUE regime which a number of submitters argue is poorly understood
  - d. education to the medical community on the WADA regime that applies to athletes who are patients.
8. For each of these areas, the role of an expanded DFSNZ education programme in addressing the risk is discussed below. This report also discusses why alternative options are not preferred.

<sup>30</sup> Ibid.

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**AREA 1:  
LOW-LEVEL ATHLETES  
RECEIVE LESS EDUCATION  
BUT HAVE THE SAME  
RESPONSIBILITIES AS ELITE  
ATHLETES**

9. At present, low-level athletes caught doping receive sanctions equal to those received by elite athletes. As discussed below, the sporting community considers this unjust. One reason for this is that elite athletes are much more likely to have received education from DFSNZ and thereby be aware of the sole responsibility they carry for the substances in their system. Given DFSNZ's limited resources, it is reasonable they focus their effort on elite sport (and pathways to elite sport, e.g. the outreach activities in secondary school sport). However, if the regime applies across all sport, it is reasonable to argue that DFSNZ should be resourced to ensure as many athletes subject to the Sports Anti-Doping Rules as possible are aware of their responsibilities.

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**AREA 2:  
EDUCATION OFFERS THE  
BEST PROTECTION AGAINST  
THE RISKS OF SUPPLEMENTS**

10. The survey results confirm what we have heard anecdotally since commencing this review: supplement use is common. Fifty percent of survey submitters use sports supplements or foods and 73 percent associate with people who do.
11. This is concerning. DFSNZ noted in their submission that until recently, more than half of the positive results from testing arose from the use of supplements. This includes instances where prohibited substances were listed in the ingredients on the packaging and instances where they were not. This kind of uncertainty means DFSNZ does not endorse any substance use (although acknowledges elite athletes have reasonable access to information).
12. It is pleasing to see 93 percent of survey submitters are concerned about the possible presence of prohibited substances in sports supplements or foods. However, only 60 percent of survey submitters said they checked for prohibited substances before using a sports supplement or food. DFSNZ also noted some organisations were providing supplements to their elite athletes, seemingly without fully understanding the inherent risks. Many people we have spoken to have told us supplement use is becoming more common in secondary school sport as players, schools and parents look for an edge in an increasingly competitive, commercial and professional environment.
13. The WADA regime places sole responsibility with the athlete for the substances they ingest. However, too many athletes are not checking the supplements they are using. Further, even checking cannot protect an athlete from an unlisted prohibited substance. Only 18 of the 45 people who answered the anti-doping survey questions commented on the education they had received regarding the use of sports supplements.
14. In the broadest sense, there are three main options for tackling the risk supplement use poses to sport:
- a. publish a list of batch-tested products
  - b. amend the regulatory regime
  - c. increase the information available to athletes and others, i.e. expand DFSNZ's education programme.
15. All include downsides. The pros and cons of each are considered below.

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**OPTION 1:  
COULD A LIST OF PRODUCTS  
THAT HAVE BEEN BATCH-  
TESTED BE PUBLISHED?**

16. One submitter suggested DFSNZ publish a list of products that have been batch tested. The list could be accompanied by a disclaimer specifying that a product could not guarantee to be safe simply because it was on the list.
17. Sport NZ rejects this idea unless it is industry funded and operated. This is because:
  - a. Sport NZ shares the belief of HPSNZ, DFSNZ and others, that very few athletes actually need supplements and athletes should instead focus on eating an appropriate diet and sleeping well
  - b. the supplements industry would capture the benefit of promoting its products as free of prohibited substances and therefore should appropriate the cost
  - c. the model proposed by the submitter necessarily includes a disclaimer showing it cannot be relied upon.

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**OPTION 2:  
COULD THE REGULATORY  
REGIME FOR SUPPLEMENTS  
BE MORE STRINGENT?**

18. Other submitters suggested the regulatory regime for supplements should be more stringent. Proposed regulatory changes include:
  - a. banning substances on the prohibited list from being included in supplements
  - b. requiring products containing a prohibited substance to be clearly labelled as such.
19. Comment on these ideas follows below.

**Banning substances on the Prohibited List**

20. Sport NZ rejects this option for two reasons. First, banning substances on the prohibited list would affect persons who are not subject to the Sports Anti-Doping Rules, e.g. recreational gym goers. In other words, it would limit the freedom of choice for the roughly 4 million New Zealanders who do not participate in organised sport, as well as those that do. Therefore, it would affect a majority of people outside the sport system, outside the target group, and outside the mandate of Sport NZ.
21. Second, for the ban to be effective, substances on the prohibited list would need to be banned from all consumables. This could limit New Zealand's sovereignty in a way that is undesirable. For example, New Zealand could vote to legalise cannabis through the referendum to be held at the 2020 election. If cannabis remains on the Prohibited List after it becomes legal (if and when) the will of the people would be overruled by requirements of the WADA regime.
22. For these two reasons, we do not support banning substances on the Prohibited List from being used in products sold in New Zealand.

## OPTION 2: COULD THE REGULATORY REGIME FOR SUPPLEMENTS BE MORE STRINGENT?

### Requiring products with ingredients on the Prohibited List to be labelled as such

23. The merit of this idea for consumers is obvious: it puts the onus on supplement manufacturers to be aware of the substances on the Prohibited List and label accordingly. However, the Prohibited List is periodically revised. Therefore, a product that contains no ingredients on the Prohibited List at the time of production could come to contain a prohibited substance if the List changes, particularly if the List changes to add substances that are technical variations on prohibited substances. Further, some supplement manufacturers have shown they cannot be trusted to list their ingredients accurately. With a core principle of the WADA regime being the athlete holding responsibility for the substances they ingest, the labelling would not be a defence if a supplement labelled as consistent with the Prohibited List returned a positive test.
24. While we can see the benefit for consumers in this approach we do not think it is practical. Supplements should be accurately labelled with the ingredients and athletes should know, or be able to find out, which ingredients are prohibited.

### The regulatory regime will change in the coming years

25. The regulatory regime for sports supplements and foods is set out in Annex 2 of the discussion document and will not be repeated here in depth.<sup>31</sup> Notably, it is four pronged as set out in the table below.

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

26. The regulatory instruments governing the first two categories of supplements are scheduled to be reviewed in the coming years.
27. The Food Act 2014 provides the Dietary Supplements Regulations will expire in March 2021. Officials are considering options for future regulation prior to the expiry of these regulations.

<sup>31</sup> <https://sportnz.org.nz/assets/Sport-Integrity-Review/Sport-Integrity-Review-Discussion-Document-30-October-2018.pdf>

28. On 24 July 2018, a roundtable on sports supplements was convened by the Australian Government Department of Health on behalf of the Food Regulation Standing Committee. An action plan has subsequently been developed and was agreed to by the Australia and New Zealand Ministerial Forum on Food Regulation on 11 October 2018. The action plan includes all proposed actions discussed at the roundtable. The first action on the Action Plan is:

*Food Standards Australia New Zealand to raise a proposal to undertake a full review of Standard 2.9.4 – Formulated Supplementary Sports Foods of the Australia New Zealand Food Standards Code, including consideration of compositional and labelling requirements.<sup>32</sup>*

29. This action has high priority. The review will follow the process set out in Food Standards Australia New Zealand Act 1991 and will take at least 12 months. Standard 2.9.4 was implemented in 1998 so a review is due.
30. It is recommended that Sport NZ and DFSNZ monitor these reviews and provide input where appropriate.

### OPTION 3: EXPAND DFSNZ'S EDUCATION PROGRAMME REGARDING SUPPLEMENTS

31. The options above have downsides which make them untenable in the view of Sport NZ. Expanding DFSNZ's education offering is within the control of the sport system and complementary to the other messages DFSNZ delivers. However, it would require an increase in funding.

#### Area 3: Therapeutic use exemptions

32. DFSNZ submitted that therapeutic use exemptions (TUEs) are "fundamentally important" to sport to allow all athletes to compete on a level playing field. DFSNZ considers the process "very robust" when followed properly and has "very high levels of confidence" in the process followed in New Zealand. Sport NZ agrees.
33. Submitters raised the following issues with the regime:
- the process for gaining a TUE is not well understood and this is particularly pertinent in New Zealand where there are a high number of asthmatics prescribed substances on the Prohibited List such as Salbutamol
  - the role of TUEs in athlete groups outside of elite competition (e.g. masters level) needs to be clarified
  - all TUEs for New Zealanders should be collated and available for review where necessary
  - the process is more efficient overseas.
34. The process for gaining a TUE may not be well understood but the information is readily available on the DFSNZ website.<sup>33</sup>

<sup>32</sup> [http://foodregulation.gov.au/internet/fr/publishing.nsf/Content/9BEA401FA7ADA805CA25835A001259A6/\\$File/Forum%20-%20Sports%20Supplements%20Action%20Plan%20-%2008-2018.pdf](http://foodregulation.gov.au/internet/fr/publishing.nsf/Content/9BEA401FA7ADA805CA25835A001259A6/$File/Forum%20-%20Sports%20Supplements%20Action%20Plan%20-%2008-2018.pdf)

<sup>33</sup> <https://drugfreesport.org.nz/tue>

### OPTION 3: EXPAND DFSNZ'S EDUCATION PROGRAMME REGARDING SUPPLEMENTS

35. The first and second points may well be related. Generally speaking:
- If athletes compete at a top level, they may need to apply for a TUE before they take medication which contains a prohibited substance.
  - Other athletes who may be tested and return a positive test due to a medication, are able to apply for a retroactive TUE (this means they can apply after they have been tested). However, they will still need to meet the criteria before a TUE will be granted.<sup>34</sup>
36. Increasing the sport community's understanding of the TUE system could be another benefit of increasing resourcing for DFSNZ's education programme.
37. The submitter who made the fourth point did not elaborate. Another submitter said the process was "too lax" overseas but appropriately rigorous in New Zealand. Sport NZ is comfortable with the level of scrutiny TUE applications receive in New Zealand.

#### Area 4: Sports physicians

38. Overseas, sports medical practitioners have acted unethically or provoked suspicion. Examples are provided in the discussion document.<sup>35</sup>
39. Comments from submitters regarding sports physicians in New Zealand were generally positive. This includes the NSOs that submitted via email. One NSO submitter wrote that positive tests from substances prescribed by sports physicians occurred "very rarely". One submitter commented that a doctor should have lost their job but no further details were provided. It seems there is no evidence of systemic problems with the conduct of sports medical practitioners in New Zealand.
40. In the New Zealand context, we are aware of at least one doctor prescribing non-consented human growth hormone and testosterone products to a patient in a manner which posed a risk to the patient's health and safety.<sup>36</sup> We are also aware of a doctor having had conditions on their scope of practice which prevent them from importing, prescribing, dispensing, or otherwise treating patients with anabolic steroids, ephedrine, growth hormone or any substances used to mask the effect of anabolic steroids and/or growth hormone. The conditions were on the scope of practice at the time the discussion document was drafted but appear to have been removed since. The doctors involved in these cases are not specialist sports medical practitioners.
41. DFSNZ noted in its submission that it sees doctors advising athletes without due consideration of the regime athletes are subject to. It submits there could be a lack of understanding about the WADA regime amongst the medical community. For this reason, DFSNZ is working with general practice and sports medicine professionals to provide education to doctors. DFSNZ notes it would require collaboration from the sector, e.g. the Ministry of Health, and additional resource to make a greater impact.

<sup>34</sup> Ibid. See also: <https://drugfreesport.org.nz/athlete-support-network/medical-professionals/therapeutic-use-exemptions/tue-faqs>.

<sup>35</sup> <https://sportnz.org.nz/assets/Sport-Integrity-Review/Sport-Integrity-Review-Discussion-Document-30-October-2018.pdf>, p.p. 78-79.

<sup>36</sup> <https://www.nzma.org.nz/journal/read-the-journal/all-issues/2010-2019/2012/vol-125-no-1360/medicolegal-medi0145p>



42. There are around 15,000 medical practitioners in New Zealand.<sup>37</sup> Complaints about their conduct in relation to sports medicine are rare. Complaints about medical practitioners can be lodged with the Health and Disabilities Commissioner. Further, the Medical Council of New Zealand has released a statement titled *Doctors and performance enhancing medicines in sport*.<sup>38</sup> The statement “sets out the Council’s position on doctors who prescribe, administer, traffic or supply performance enhancing medicines or off-label and non-evidence based medicines for sporting purposes, or who assist in doing so.” It notes that any doctor engaging in inappropriate practices risks disciplinary proceedings and that “[t]his statement may be used by the Health Practitioners Disciplinary Tribunal, Council and the Health and Disability Commissioner as a standard by which a doctor’s conduct is measured”. Therefore, the system has:
- a. clear expectations for medical practitioners in regard to sport
  - b. a clear avenue for redress in the Health and Disabilities Commissioner if the expectations are not met.
43. We do not consider there is a need for Sport NZ to take further action in this area, beyond taking an active interest in any issues that arise, given that:
- a. complaints of the conduct of medical practitioners in regard to sport are rare
  - b. the expectations of medical practitioners in regard to sport are clear
  - c. there is a mechanism for addressing any problems with conduct
  - d. DFSNZ is working with the sector to better educate doctors
  - e. there is a stronger case for the government to use its limited resources in other areas within this report.

## THE RESOURCING OF DFSNZ

44. Submitters believe there would be real benefit in providing DFSNZ with additional resourcing. Of those that used the survey tool, 42 percent said DFSNZ was not adequately resourced to meet its obligations compared with only 20 percent that thought it was.
45. DFSNZ has three main functions:
- a. education
  - b. testing
  - c. investigation.
46. As noted above, we believe there is a strong case for exploring an increase of funding to enable the expansion of DFSNZ’s anti-doping education programme. Submitters made specific comments on the shortage of funding for education, saying DFSNZ could have more presenters at workshops, or could upskill regional hubs to provide education in the regions.
47. Two email submissions, one of which represented the views of 24 NSOs and Paralympics NZ, argued DFSNZ should receive more funding to undertake more testing and ideally have a laboratory in New Zealand for analysing samples. They submitted that there are tournaments where testing is required by DFSNZ has not been able to undertake it.

<sup>37</sup> <https://www.mcnz.org.nz/assets/News-and-Publications/Workforce-Surveys/Workforce-Survey-Report-2016.pdf>

<sup>38</sup> <https://www.mcnz.org.nz/assets/News-and-Publications/Statements/Doctors-and-performance-enhancing-medicines-in-sport.pdf>

48. One NSO argued DFSNZ needed more funding to allow for more capacity in investigation (and education). Sport NZ believes investigation is increasingly likely to catch dopers (compared to testing). Investigation led to the exposure of the Russian Olympic team and the clenbuterol cases in New Zealand. With doping techniques becoming increasingly sophisticated, investigation is expected to play a greater role in the fight against doping. DFSNZ has reacted to this. Its latest annual report notes: "Intelligence and investigations plays an increasing role in uncovering anti-doping rule violations, and we have employed a full time Investigations and Intelligence Manager to lead this for us."<sup>39</sup>

### Testing

49. International federations attach conditions to the hosting rights for some flagship events. This can include a condition that a minimum number of drug tests be performed as part of an event. DFSNZ cannot perform these tests for free. They are offered on a user pays basis.
50. Sport NZ has been told that costs such as this are difficult to meet for NSOs and that sometimes this can mean New Zealand misses out on hosting prominent events. It has been suggested that the government provide a pool of funding specifically to cover user pays tests that users cannot pay for.
51. The idea of the government funding these tests needs further exploration. Key questions include:
- a. How many of tests would be performed each year and what would this cost?
  - b. How many events does New Zealand miss out on hosting because of the cost of drug tests?
  - c. What would be the impact of this funding initiative on sport integrity, the prominence of sport in New Zealand, and on economic development and other factors related to the hosting of sports events?
52. Setting up a new lab in New Zealand would cost millions and increase the government's contribution to the fight against doping by an order of magnitude. Sport NZ considers this prohibitively expensive at this stage.

### Investigation

53. The value of investigation is set out above, as is the fact that DFSNZ has recently increased its resources in this area.
54. DFSNZ is refreshing its approach to attracting, receiving and handling information, with a new approach to be rolled out in 2019. DFSNZ submitted:
- This extends beyond a whistleblowing phone line and policy, as other valuable sources of information and intelligence will include interactions DFSNZ has with athletes and support personnel, such as after their training. DFSNZ educators and doping control officers have face-to-face time with a large number of athletes during the year as part of their work and we will be giving them further support to recognise and report information of interest.*
55. Rather than hiring more investigators, any additional resources that could be made available could best be used to assist with the implementation of a system for collecting and handling intelligence. This idea is explored further in the match-fixing chapter.

<sup>39</sup> [https://drugfreesport.org.nz/uploads/site/assets/5-0\\_830910\\_DFSNZ\\_2018\\_Annual\\_Report\\_web2.pdf](https://drugfreesport.org.nz/uploads/site/assets/5-0_830910_DFSNZ_2018_Annual_Report_web2.pdf)

## DISCRETION WHEN SANCTIONING SEEMS DESIRABLE

56. An issue regularly raised with Sport NZ in the context of this review is the application of the Sports Anti-Doping Rules – and the corresponding sanctioning regime – to low-level athletes.

### There is general support for low-level athletes to be in an anti-doping regime

57. Over 75 percent of survey submitters said low-level athletes and participants should be subject to the Sports Anti-Doping Rules. Those that commented in support of this position said:
- a. consistency is important and all athletes should be subject to the same rules
  - b. the rules imposed on low-level athletes have flow on effects for elite level athletes.
58. Email submissions contained either explicit or implicit support for the continued application of some sort of anti-doping regime for all athletes.
59. Sport NZ agrees with this position. We oppose doping at all levels because:
- a. sport should be played on a level playing field
  - b. doping can have negative health effects
  - c. doping is contrary to the values of sport
  - d. allowing doping would send the wrong message to our athletes, particularly young athletes
  - e. many low-level athletes want to be elite athletes and therefore need to train without substances that will not be available to them if they rise in ability.
60. Comments ostensibly opposing the application of the Sports Anti-Doping Rules to low-level athletes were not arguing that doping should be available to low-level athletes. Instead they were concerned that:
- a. given funding is limited, efforts should focus on elite sport
  - b. recent cases pursued by DFSNZ against amateur athletes resulted in disproportionate sentences.

### There is narrow support for discretion to be applied in sanctioning

61. There was narrow support for greater discretion to be available for punishing dopers in different circumstances, with 52 percent of survey submitters supporting less harsh sanctions being available for low-level athletes. Submitters suggested the consequences of doping could depend on whether:
- a. the doping was intentional or unintentional
  - b. the level at which the athlete competes
  - c. the particular anti-doping rule violation committed by the athlete (e.g. use of a prohibited substance should attract a harsher sentence than possession of a prohibited substance).

### **New Zealand is bound by an international regime on this matter**

62. DFSNZ would like to see greater discretion available for the Sports Tribunal and New Zealand Rugby Judicial Committee to use when sanctioning truly recreational athletes. However, the legal advice DFSNZ has received is that there is no possibility for discretion if New Zealand is to remain fully compliant with the WADA regime. This is the legal advice DFSNZ has received on this point, including from WADA itself.
63. In all areas, New Zealand benefits from being a “good international citizen”, compliant with its international agreements. This includes the World Anti-Doping Code. DFSNZ is working with WADA on the 2021 review of the Code to allow discretion in sanctioning truly recreational athletes. Sport NZ supports this position.

### **THE SPORTS ANTI-DOPING ACT AND THE FUNCTIONS AND POWERS OF DFSNZ**

64. The functions of DFSNZ are set out in section 12 of the Sports Anti-Doping Act 2006. The powers of DFSNZ are set out in section 13 of the same Act. Submitters were asked to comment on the legal functions and powers of DFSNZ, and if they had any other comments on the Sports Anti-Doping Act.
65. Submitters made one specific suggestion for changing the Sports Anti-Doping Act. DFSNZ and NZ Rugby argued DFSNZ should have a power to compel the provision of information, akin to that available to the Australian Sports Anti-Doping Authority and other national anti-doping organisations. DFSNZ argued it would be particularly useful for targeting traffickers and suppliers who could be referred to the Police or Medsafe. DFSNZ suggested that such a production power might be used only where there was reasonable suspicion that an anti-doping rule violation had been committed and require formal approval and sign-off by DFSNZ’s Chief Executive. This approach would allow the athlete to take full legal advice as required.
66. The Ministry of Justice has provided initial advice on this matter, noting that there is a high threshold for the awarding of production powers and that the case for doing so needs to be weighed against the public interest in limiting the power of the state. Sport NZ is willing to consider this matter further with DFSNZ and the Ministry of Justice, particularly given the potential increased role in match-fixing education and intelligence gathering proposed for DFSNZ in relation to match-fixing.

## COMMENTS ON THE HEARING OF ANTI-DOPING CASES IN NEW ZEALAND

### Expanding the membership of the Sports Tribunal would have benefits

67. DFSNZ submitted that it understood that convening a panel can be difficult at times and often procedural discussions are overseen by the Chair alone. DFSNZ would like to see a wider use of the Tribunal members.
68. Sport NZ agrees there would be value in expanding the membership of the Sports Tribunal so that it would be easier to convene. This would require a law change. Section 30(l) of the Sports Anti-Doping Act provides the Tribunal consists of at least five, but no more than nine members. Sport NZ would like to remove the cap on the number of Tribunal members to enable a greater number to be appointed. It needs a legislative vehicle to do this.
69. For completeness, we note that the operation of the Sports Tribunal could change so that where DFSNZ and the respondent agree on the events and the outcome, the Tribunal would not convene to hear the case. However, we still believe there are benefits to having more members of the Tribunal.

### The NZ Rugby Judicial Committee is an outlier

70. All sports bring anti-doping cases to the Sports Tribunal other than rugby, which uses the NZ Rugby Judicial Committee. DFSNZ submitted that “the Rugby Union Judicial Committee performs an excellent function” but “a single tribunal for all sport in New Zealand would be more efficient, effective and consistent”. The 2015 review of the Tribunal noted the following advantages of a sport using the Tribunal:
  - a. it is totally independent from every National Sports Organisation
  - b. it has a panel of decision makers of very high quality
  - c. it sits regularly
  - d. it has its own well-established set of rules and has developed its own jurisprudence.
71. NZ Rugby submitted that the “regulatory reasons” it operates “its own anti-doping regime” continue to apply.
72. The 2015 review of the Tribunal also noted that the sovereignty of each sport is extremely important and that decisions about whether to use the Tribunal may be influenced by the rules imposed upon them by their international federation (e.g. World Rugby) and through collective bargaining with player associations.
73. Sport NZ agrees with DFSNZ in theory. Over time, it makes sense for NZ Rugby to use the same Tribunal as other sports for the reasons listed above. This would ultimately require a change to the Sports Anti-Doping Act which currently provides for sports to use their own tribunals. It is therefore recommended that Sport NZ works with NZ Rugby to encourage them to use the Sports Tribunal for doping cases involving rugby players.

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## COMMENTS ON THE COURT OF ARBITRATION FOR SPORT (CAS)

74. The right of athletes and others to appeal to CAS is fundamental and should be maintained.
75. Some submitters said the process of appealing to CAS worked “pretty well” but other criticised CAS, arguing:
  - a. the appointment process does not appear to be as robust as the appointment process for the Sports Tribunal
  - b. it is expensive to take cases to CAS.
76. The criteria for the appointment of CAS arbitrators does appear to be more generic and less stringent than the appointment criteria for members of the Tribunal. For example, the Chairperson of the Tribunal must have significant understanding, interest, or experience in sport and must be:
  - a. a retired judicial officer who has held office in a New Zealand court or statutory tribunal; or
  - b. a senior barrister or solicitor of the High Court of New Zealand with not less than seven years’ practice and who is of standing and repute within the legal profession.
77. In contrast, the criteria for appointment to CAS refers to “appropriate legal training” and “recognised competence”. This could result in CAS arbitrators who are less-qualified or experienced than Tribunal members being in a position to overrule the Tribunal. We note, for completeness, that the current pool of CAS arbitrators from New Zealand arguably also meet the appointment criteria for the Tribunal, although this requires some subjective analysis.
78. While we support the existence of CAS as the global court that specialises in hearing sports-related matters, we consider CAS should be as independent as possible and adopt robust practices and procedures regarding the appointment of arbitrators and the hearing of cases.
79. Ultimately, New Zealand’s ability to influence the way in which CAS operates is limited given it is controlled by the sport movement. However, Sport NZ raised in its submission on the WADA Code review the need to strengthen CAS by calling for processes that:
  - a. remove actual or perceived conflicts of interest
  - b. rigorous and transparent criteria for the appointment of CAS arbitrators
  - c. rigorous and transparent criteria that applies to the hearing of cases
  - d. require the prompt publishing of written decisions.
80. We will continue to pursue this matter through the Code review.
81. It will always be expensive to take cases to an international body. The government will not fund individuals to take cases to CAS as the benefit of a change in outcome will likely affect the individual and NSO concerned rather than create a broader public benefit. This is also consistent with the government’s approach to other types of legal appeal.

**SPORT NZ SHOULD EXPLORE  
THE ESTABLISHMENT OF A  
DOMESTIC APPEAL BODY  
FROM THE SPORTS TRIBUNAL**

82. Given the expense and relative inaccessibility of CAS for most parties that find themselves before the Sports Tribunal, it is therefore recommended that Sport NZ explores whether it would be appropriate to establish a domestic appeal body from the Sports Tribunal. This would provide those whose cases are heard by the Tribunal with an alternative, cheaper avenue for appealing Tribunal decisions. This body would be able to hear appeals in any Sports Tribunal cases, not just those involving doping.
83. CAS is currently the only avenue available to those wishing to appeal a decision of the Sports Tribunal. Such an appeal is only allowed where the NSO allows. In some instances, NSOs do not allow Sports Tribunal decisions to be appealed, leaving prospective appellants (including NSOs themselves) with no appeal options.
84. We do not seek to eliminate CAS from New Zealand proceedings altogether. If a domestic appeal body were established, parties would still have the right to appeal its decisions to CAS.

# 05

## PROTECTING AGAINST CORRUPTION



# KEY FINDINGS

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## 01

### SUBMITTERS ARE GENERALLY CONFIDENT THEY COULD RECOGNISE AND REPORT FINANCIAL CRIME

- 76% of survey respondents described themselves as “extremely confident”, “very confident”, or “somewhat confident” they would recognise financial crime. 68% of submitters said they would be willing and able to report these behaviours. Only 9% said they would not report.

## 02

### COMPLIANCE WITH THE LEGAL OBLIGATIONS OF INCORPORATED SOCIETIES AND SPORTS CHARITIES IS HIGH

## 03

### SUBMITTERS DON'T TRUST THE GOVERNANCE ARRANGEMENTS OF THEIR ORGANISATIONS TO MITIGATE THE RISKS OF CORRUPTION

- 60% of survey submitters are “not so confident” or “not at all confident”.

## 04

### WELL-RESOURCED EMAIL SUBMITTERS LIKE THE SPORT NZ FINANCE POLICY TEMPLATES. HOWEVER, SURVEY RESPONDENTS HAD LOW AWARENESS AND USE

## 05

### WE ARE NOT AWARE OF ANY NEW SUBSTANTIATED CLAIMS OF NEW ZEALANDERS BEING BRIBED OR CORRUPTED IN A SPORTING CONTEXT

## RECOGNISING AND REPORTING FINANCIAL CRIME

1. Survey submitters generally think they would recognise corruption, bribery, fraud, embezzlement, money laundering and other financial crimes if they saw them in a sports context. Seventy-six percent of survey submitters described themselves as “extremely confident”, “very confident”, or “somewhat confident” they would recognise these behaviours.
2. Sixty-eight percent of submitters said they would be willing and able to report these financial crimes if they saw them in a sports context. Only nine percent said they would not report them. Five of the seven email submitters also said they would report these behaviours.
3. DFSNZ submitted that anecdotal evidence suggested people overestimate:
  - a. their ability to recognise such issues; and
  - b. the likelihood they would report such issues.
4. DFSNZ said that without education as to what to look for, people will often accept an “honest” explanation, however farfetched, before accepting there may be a “dishonest” explanation and that fraudsters rely on and exploit this to carry out their deception.
5. At the time of writing, no decisions have been made on the recommendations in this report, including the recommendation to consider creating a government-funded education programme to protect against match-fixing. If a nationwide education programme was to be rolled out then it could include training people on what to look for in regard to financial crime also.

## INCORPORATED SOCIETIES AND SPORTS CHARITIES

6. Submissions suggest that compliance with the legal obligations of incorporated societies and sports charities is high.

### Incorporated societies

7. Question C05a asked: To what extent does your organisation fulfil its legal obligations in regard to financial record keeping? (Please only answer this question if your organisation is an incorporated society)
8. Twelve submissions were received on this question through the survey tool. Ten of these submitters said they “always” fulfilled their legal obligations. One submitter said they “usually” fulfilled their obligations without providing further comment. The final survey submitter said they “rarely” fulfilled their obligations, commenting “volunteers” without further explanation. All five email submitters that addressed this question said their organisation was fully compliant with all financial record keeping obligations. Reasons given for full compliance with these legal obligations included annual external audits, internal finance committees and highly capable internal finance staff.
9. Ultimately, the consultation revealed no evidence that sports organisations are struggling to meet their obligations under the Incorporated Societies Act. Therefore, we see no immediate need to take action in this area. However, looking ahead, we need to be aware of the proposed reforms in this area and help sport organisations that are incorporated societies handle their new obligations. A Bill to amend the Incorporated Societies Act could be introduced in 2019 to make changes including:

- a. making the basic duties for “committee members” more akin to directors’ obligations under the Companies Act 1993
- b. adding more specificity around managing conflicts of interest
- c. adding a requirement for incorporated societies to have a constitution which includes a process for handling disputes
- d. requiring societies to use External Reporting Board accounting standards in the preparation of their financial statements.

### Sports charities

- 10. Question C07 asked: To what extent does your organisation fulfil its legal obligations in regard to financial record keeping? Please explain your answer. (Please only answer this question if your organisation is a charity)
- 11. All six survey submitters on this question said they were “always” compliant with their legal obligations. All three email submitters that addressed this question said their organisation was fully compliant with all financial record keeping obligations.
- 12. Reasons given for being compliant included:
  - a. the use of a legislative compliance register
  - b. reviews from internal risk and audit committees
  - c. keeping full financial records, which are independently audited annually.
- 13. Ultimately, the consultation revealed no evidence that sports organisations are struggling to meet their financial record keeping obligations as charities. Therefore, we see no immediate need to take action in this area.
- 14. The Department of Internal Affairs is reviewing the Charities Act 2006. A discussion document has been released, seeking submissions by 30 April 2019.<sup>40</sup> Key areas being considered include:
  - a. are current requirements for remaining on the register working?
  - b. does the regulator have the right functions and powers?
  - c. how can the process to appeal decisions be improved?
  - d. how can the Act work better for Māori charities and Māori communities?
  - e. how can the risks of charities operating businesses to raise funds be managed?
  - f. should there be limits on advocacy by charities?
- 15. Subject to Cabinet agreement, a Bill to implement new policy proposals will be introduced in 2019. Sport and recreation organisations make up around seven percent of New Zealand’s 27,000 registered charities. This includes the likes of Paralympics NZ. Therefore, Sport NZ has a role in supporting to the sector, similar to that proposed for the Incorporated Societies Act reforms.

<sup>40</sup> [https://www.dia.govt.nz/Web/DIACorp.nsf/0/9FF4705183COA70CCC2583AD00168C19/\\$file/Modernising%20the%20Charities%20ActDiscussion%20Document%202019%20-%20February2019.pdf](https://www.dia.govt.nz/Web/DIACorp.nsf/0/9FF4705183COA70CCC2583AD00168C19/$file/Modernising%20the%20Charities%20ActDiscussion%20Document%202019%20-%20February2019.pdf)

## GOVERNANCE ARRANGEMENTS AND SPORT NZ RESOURCES

16. Question C08 asked: *To what extent are you confident the sport organisations you are involved with have robust governance arrangements and protections against corruption?*
17. Survey submitters were divided on the issue, with more expressing a lack of confidence as shown in the table below.

Classification	Extremely confident	Very confident	Somewhat confident	Not so confident	Not at all confident	Total Responses
Number of survey submitters	5	8	5	13	13	44
Percentage of survey submitters	11%	18%	11%	30%	30%	100

18. Nine email submitters addressed this question. There were varying levels of confidence among these submissions, from low confidence through to very high confidence.
19. Explanations for low levels of confidence included:
- increasing demands on many sector participants
  - lack of understanding of the appropriate governance arrangements
  - under-resourcing of capability within the sector
  - examples of cronyism
  - examples of practices being questioned leading to bullying
  - a lack of transparency.
20. Measures suggested by submitters that would lead to higher levels of confidence included vigilance in terms of robust governance and policy implementation, avoidance of actual or perceived conflicts of interest, shared resources between NSOs to help raise awareness of best practice, clear processes and policies, thorough contract sign-off process and NSOs supporting their RSOs in this area.
21. Sport NZ already produces a range of resources to help sports organisations have robust governance arrangements. Resources include:
- the Governance Mark
  - the Nine Steps to Effective Governance document
  - other guidance material.
22. Only 18 percent of survey submitters said they had used the Sport NZ resources to help an organisation with its governance arrangements.
23. The NSO and RST submitters through email were complimentary towards the governance resources provided by Sport NZ.

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24. This suggests the better resourced organisations, with better connections to Sport NZ, are enjoying the benefits of these resources. However, these resources are not being used by grass roots organisations (more likely to complete the survey). Even without the Sport NZ resources, it would not be surprising if better resourced organisations had more professional governance arrangements and practices to counter corruption.
  25. Sport NZ received a number of suggestions of things it could do to help sport organisations strengthen their governance arrangements. Suggestions include:
    - a. facilitate more sharing of resources and lessons – NSOs seemed to want this and Aktive is enthusiastic about the Chairs' Roundtable it runs for Auckland-based chairs of NSOs, RSTs and RSOs
    - b. further promote the Sport NZ resources at all levels but especially grass roots, perhaps by targeting grass roots organisations more directly
    - c. targeting simpler, shorter guidance documents at less-resourced organisations
    - d. running workshops on successful governance
    - e. more actively review the governance policies of its partner organisations.

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## FINANCE POLICY TEMPLATES

26. Seven email submissions were received on the questions regarding the Sport NZ finance policy templates. Submissions were received from two RSTs, four NSOs submitting individually, and a group comprising 24 NSOs and Paralympics NZ. All seven email submissions said these submitters:
  - a. are aware of the finance policy templates
  - b. had used the finance policy templates
  - c. had found them useful.
27. Specific templates referenced in email submissions included the corporate credit card, debt management, fraud, insurance, designated authorities process policies.
28. The survey submissions painted a different picture:
  - a. Only eight of 44 survey submitters were aware of the Sport NZ finance policy templates
  - b. Only two of 41 survey submitters had used the Sport NZ finance policy templates
  - c. Only three of 28 survey submitters said they found them useful.
29. If we assume survey submitters are more likely to be individuals participating in grass roots sport, this suggests better resourced organisations (who are better connected to Sport NZ) are more aware of the finance policy templates and more likely to use them. And if these organisations benefit from using them, it seems likely that less resourced organisations would too.
30. Comments from survey submitters hold few clues as to the additional support that would be useful.

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31. Additional financial guidance that email submitters suggested they could use included:
    - a. assistance in improving financial reporting for boards and the creation and presentation of financial reports
    - b. additional Sport NZ investment into financial systems improvement
    - c. the quality, detail and efficiency in data capture
    - d. a platform for sharing lessons between organisations
    - e. regular updates and training for staff.
  32. On the first point, when the Incorporated Societies Act is updated there will be a need for incorporated societies to use the External Reporting Board accounting standards. As recommended above, Sport NZ should provide guidance on this when the time comes.

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## CORRUPTION IN THE INTERNATIONAL ENVIRONMENT

33. In the course of our research we heard examples of international sports organisations attended by New Zealanders that were highly political, if not subject to corruption.
34. In the discussion document we wrote:
 

*New Zealand's NSOs engage with international federations to represent New Zealand's interests. Many New Zealanders sit on committees in international sports organisations and contribute their expertise. They do so while interacting with representatives from all over the world, including from countries that have different cultural approaches to bribery and other behaviour New Zealanders do not condone. We are not aware of any substantiated claims of New Zealanders being bribed or corrupted in this capacity.*
35. This continues to be true.
36. The Ministry of Justice has been considering the territorial application of corruption offences under the Crimes Act 1961 and Secret Commissions Act 1910. This work has recently been deprioritised following the Christchurch Mosque attacks. Sport NZ will continue to monitor developments in this area.

# 06

## PROTECTING AGAINST MATCH-FIXING

# KEY FINDINGS

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## 01

**THE RISK OF MATCH-FIXING IS GROWING AND/OR ALREADY REASONABLY HIGH**

- This statement is supported by the submissions, Sportradar assessments, and risk profile in the consultation document.

## 02

**IT IS WIDELY KNOWN THAT MATCH-FIXING IS AN OFFENCE UNDER THE CRIMES ACT 1961**

## 03

**NO INCIDENTS WERE REPORTED BY SUBMITTERS THAT WE WEREN'T AWARE OF**

## 04

**NO NEW REASONS WERE SUBMITTED FOR MATCH-FIXING NOT BEING REPORTED**

## 05

**SPORTS ARE ADOPTING POLICIES BUT AWARENESS AND IMPLEMENTATION IS INCONSISTENT**

- 22 survey respondents said they had been obliged to adopt the New Zealand Policy on Sports Match-Fixing and Related Corruption but only seven had adopted rules.
- Implementation of education and protection and support mechanisms (as required by the Policy) seem mixed.



**THE RISK POSED BY MATCH-FIXING IS GROWING AND/OR REASONABLY HIGH ALREADY**

1. This view is supported by several sources including the submissions received through consultation, the growing risk profile in New Zealand, risk assessments provided by Sportradar, and alarming statistics from sports such as tennis and football.

**The consultation**

2. The results of the survey submissions are set out below.

**TABLE MFI:  
TO WHAT EXTENT IS  
MATCH-FIXING A RISK  
FOR THE SPORTS YOU ARE  
INVOLVED WITH? PLEASE  
EXPLAIN YOUR ANSWER.**

Option	A very high risk	A high risk	A moderate risk	A low risk	No risk	Total responses
Number of survey submitters	8	1	9	16	3	37
Percentage of survey submitters	22%	3%	24%	43%	8%	100

3. As shown, 18 of 37 survey submitters believe the risk of match-fixing to the sports they are involved in is “very high”, “high” or “moderate”.
4. Most email submissions on this question acknowledged a growing risk of match-fixing in New Zealand, particularly for sports where there is significant betting interest.

### The growing risk profile in New Zealand

5. The discussion document set out the conditions that make match-fixing more likely and the degree to which these conditions are present in New Zealand. The implications are still relevant. To recap, the conditions include:
  - a. the increasing range of regulated offshore betting markets the New Zealand government has no oversight over
  - b. a global increase in unregulated betting markets which no government has oversight over
  - c. increased difficulty in detecting gambling given the rise of crypto-currencies and the dark web
  - d. unequal pay for participants across the globe means financial incentives to match-fix will always be more appealing to some – at times New Zealanders will be paid a lot more and a lot less than their overseas counterparts
  - e. New Zealand's time zone means any sport televised in New Zealand can be conveniently viewed in countries with gambling cultures – New Zealand even has a monopoly on the attention of overseas bookmakers at times
  - f. the range of sports and levels of sport televised in New Zealand has increased dramatically in recent years (including through new channels such as Facebook), meaning more participants, including those paid less and receiving less match-fixing education, are broadcast to bookmakers and thereby exposed to the risks of match-fixing
  - g. the perception of New Zealand as non-corrupt, which can mean we are more naïve to the threat of match-fixing.

### The Sportradar risk assessments

6. The Sportradar risk assessments show New Zealand is not immune to the threat of match-fixing. Sportradar is an international company specialising in data analytics to detect sport integrity threats such as match-fixing. Sport NZ contracted Sportradar to provide risk assessments for prominent competitions within ten sports in New Zealand:
 

a. Football (soccer)	g. Golf
b. Netball	h. Ice Hockey
c. Swimming	i. Rugby League
d. Tennis	j. Rugby.
e. Basketball	
f. Cricket	
7. Sportradar uses a five-tier system to rate risk:
  - a. Risk level 5 – very high
  - b. Risk level 4 – high
  - c. Risk level 3 – strong
  - d. Risk level 2 – moderate
  - e. Risk level 1 – low.

8. No competition was deemed to have very high risk. However, several competitions were deemed to have high, strong or moderate risk as set out in the table below.

Sport	High risk	Strong risk	Moderate risk	Low risk
Football	<ul style="list-style-type: none"> <li>- All Whites matches</li> <li>- OFC Champions League matches</li> <li>- A-League matches (Wellington Phoenix)</li> <li>- ISPS Handa Premiership</li> <li>- Football Ferns matches</li> <li>- 8</li> </ul>	<ul style="list-style-type: none"> <li>- National Youth League</li> <li>- NRL Men's Premier League (regional)</li> <li>- Mainland Men's Premier League</li> <li>- Ultra Football Central League</li> </ul>	<ul style="list-style-type: none"> <li>- National Women's League</li> <li>- NRL Women's Premier League (regional)</li> </ul>	
Netball		<ul style="list-style-type: none"> <li>- Constellation Cup (Silver Ferns)</li> </ul>	<ul style="list-style-type: none"> <li>- Netball Quad Series (Silver Ferns)</li> <li>- ANZ Premiership</li> <li>- Taini Jamison Trophy (Silver Ferns)</li> <li>- Super Club Netball</li> <li>- Fast 5 Netball</li> </ul>	<ul style="list-style-type: none"> <li>- Beko Netball League</li> </ul>
Swimming			<ul style="list-style-type: none"> <li>- Commonwealth Games</li> <li>- PANPACS</li> </ul>	<ul style="list-style-type: none"> <li>- Open Water Championships</li> <li>- Aon National Age Group Championships</li> <li>- Short Course Championships</li> <li>- Aon Open Championships</li> </ul>
Tennis	<ul style="list-style-type: none"> <li>- ATP/WTA Auckland Open</li> </ul>			<ul style="list-style-type: none"> <li>- Pascoes New Zealand Championships</li> <li>- Auckland Championships</li> <li>- Tennis Auckland Spring Open Indoor Singles</li> </ul>
Basketball	<ul style="list-style-type: none"> <li>- Australian National Basketball League</li> <li>- Tall Blacks international matches</li> <li>- New Zealand National Basketball League</li> <li>- Tall Ferns international matches</li> </ul>			<ul style="list-style-type: none"> <li>- Women's Basketball Championship</li> </ul>

Sport	High risk	Strong risk	Moderate risk	Low risk
Cricket	<ul style="list-style-type: none"> <li>- Men's One Day Internationals</li> <li>- Men's International T20 matches</li> <li>- Super Smash</li> <li>- International Tests</li> </ul>		<ul style="list-style-type: none"> <li>- Ford Trophy</li> <li>- Women's One Day Internationals</li> <li>- Women's International T20 matches</li> <li>- Super Smash (Women's)</li> <li>- Plunket Shield</li> </ul>	
Golf		<ul style="list-style-type: none"> <li>- New Zealand Open</li> </ul>	<ul style="list-style-type: none"> <li>- New Zealand PGA Championship</li> <li>- New Zealand Women's Open</li> </ul>	<ul style="list-style-type: none"> <li>- SBS Invitational</li> <li>- Taranaki Open</li> <li>- Trans-Tasman Cup</li> <li>- Rebel Sport Masters</li> </ul>
Ice Hockey		<ul style="list-style-type: none"> <li>- New Zealand Ice Hockey League</li> </ul>		<ul style="list-style-type: none"> <li>- New Zealand Women's Ice Hockey League</li> <li>- New Zealand Junior U20s</li> <li>- New Zealand Midget UI8s</li> <li>- New Zealand Bantam UI5s</li> </ul>
Rugby League	<ul style="list-style-type: none"> <li>- Men's Internationals</li> <li>- NRL</li> </ul>	<ul style="list-style-type: none"> <li>- NSW Cup</li> </ul>	<ul style="list-style-type: none"> <li>- Women's Internationals</li> </ul>	<ul style="list-style-type: none"> <li>- NZRL National Competition</li> <li>- NZRL National Women's Tournament</li> <li>- NZRL Secondary Schools Tournament</li> <li>- NZRL National Youth Tournament</li> <li>- Club Competitions</li> </ul>
Rugby	<ul style="list-style-type: none"> <li>- All Blacks Internationals</li> <li>- Super Rugby</li> <li>- ITM / Mitre 10 Cup</li> </ul>	<ul style="list-style-type: none"> <li>- World 7's in Hamilton</li> <li>- Heartland Championship</li> </ul>	<ul style="list-style-type: none"> <li>- Black Ferns Internationals</li> </ul>	<ul style="list-style-type: none"> <li>- Farah Palmer Cup</li> </ul>

## STATISTICS FROM INTERNATIONAL SPORTS

9. Some statistics from sports around match-fixing show the risk is growing or is high.

### The Tennis Integrity Unit has found an increasing presence of match-fixing

10. The Tennis Integrity Unit tracks “Match Specific Alerts”, i.e.

- a. suspicious betting patterns for specific matches reported by betting operators
- b. possible breaches of integrity for specific matches.

11. It is important to note that Match Specific Alerts only reflect what comes to light, and do not equate to proven integrity breaches. However, they are still indicative of risk.

12. The table below shows the increase in Match Specific Alerts over a nine-year period.<sup>41</sup>

Level	2009	2010	2011	2012	2013	2014	2015	2016	2017	TOTAL
Grand slam	5	8	3	1	1	1	4	8	15	46
Tour level	41	49	24	6	8	13	37	38	37	253
Mid-level	17	19	10	15	29	34	87	120	110	441
Lowest level	-	1	1	3	15	58	141	240	192	651
All levels	63	77	38	25	53	106	269	406	354	1,391

13. Clearly, suspicious activity has increased over the past decade in tennis, particularly at the lower levels. Further, the Tennis Integrity Unit surveyed over 3,200 players and found 15 percent of all respondents indicated that they had first-hand knowledge of match-fixing.<sup>42</sup> This is similar to research cited by Reuters in mid-2017 which noted 15 percent of athletes said they had been approached in the previous year to fix matches.<sup>43</sup>

### Match-fixing in international football

14. Internationally, there is a strong link between match-fixers and organised crime. FIFPro research found high number of players would not report an approach without guaranteed confidentiality to mitigate the fear for their safety. This was the position of 34 percent of players in Scotland, 44 percent in Norway and 71 percent in Greece.<sup>44</sup>

41 [http://www.tennisintegrityunit.com/storage/app/media/Independent%20Reviews/Final%20Report\\_191218.pdf](http://www.tennisintegrityunit.com/storage/app/media/Independent%20Reviews/Final%20Report_191218.pdf)

42 Ibid. The Tennis Integrity Unit also found 16 percent of all respondents indicated that they had first-hand knowledge, defined as information from their “personal observation or experience”, of a player betting on tennis, and 11 percent of all respondents indicated that they had first-hand knowledge of a player providing inside information.

43 <https://www.reuters.com/article/us-sport-matchfixing/third-of-athletes-believe-matches-have-been-fixed-report-idUSKBNIAA2EI>

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

### It is widely known match-fixing is an offence

15. The consultation showed there is high awareness that match-fixing is an offence under the Crimes Act 1961. The survey results are set out in the table below.

**TABLE MF3:  
ARE YOU AWARE THAT MATCH-FIXING IS AN OFFENCE UNDER THE CRIMES ACT 1961? IF SO, HOW WERE YOU MADE AWARE?**

Option	Yes	No	I don't know	Total responses
Number of survey submitters	33	4	0	37
Percentage of survey submitters	89%	11%	-	100

16. All eight email submitters that addressed this question answered "yes".

### NO NEW EXAMPLES OF MATCH-FIXING IN NEW ZEALAND WERE PROVIDED THROUGH SUBMISSIONS

17. Submitters were asked if they were aware of any legal action taken or considered in regard to match-fixing. Various examples were provided including:
- race-fixing exposed in 2018 as a result of Operation Inca
  - allegations of inappropriate betting in a domestic New Zealand basketball game
  - a rebuked approach at the New Zealand Badminton Open
  - events that took place overseas.
18. Sport NZ and the Police are aware of these incidents.
19. NSOs provided some examples of their betting regulations being breached by their participants. These breaches have been unrelated to broader match-fixing or corruption. NSOs did not indicate they needed any additional assistance in relation to these matters.

### NO NEW REASONS WHY MATCH-FIXING MIGHT NOT BE REPORTED WERE PROVIDED

20. We asked submitters if they were aware of any reasons match-fixing activity might not be reported. We were trying to find if there were structural barriers to the reporting of match-fixing, i.e. people with information might not know who to report it to.
21. Submitters offered the following explanations for match-fixing not being reported:
- threats and repercussions for whistleblowers
  - those involved in match-fixing would not report themselves
  - a lack of proof or a lack of confidence in the information held by a potential whistleblower
  - the match-fixer could be a minor or a juvenile rather fixing for amusement rather than an organised criminal group fixing for significant financial gain
  - fear of penalty or reputational risk by association
  - embarrassment
  - uncertainty as to the reporting process.
22. This information is not new to Sport NZ or the enforcement agencies.

**SPORTS ARE GIVING MIXED INDICATIONS OF HOW WELL THEY'RE MANAGING THE RISK OF MATCH-FIXING**

23. Question MF10 asked those submitting from organisations receiving funding from Sport NZ and/or High Performance Sport NZ: To what extent do you feel your organisation is managing the risk of match-fixing appropriately? The results are shown below.

**TABLE MF4: SURVEY SUBMISSIONS ON MF10: TO WHAT EXTENT DO YOU FEEL YOUR ORGANISATION IS MANAGING THE RISK OF MATCH-FIXING APPROPRIATELY?**

Option	Very well	Well	Just OK	Not well	Total responses
Number of survey submitters	3	6	3	5	17
Percentage of survey submitters	18%	35%	18%	29%	100

24. Five email submitters addressed this question. One submission representing 24 NSOs and Paralympics NZ said most NSOs have some form of process in place for updating their match-fixing policy, communicating it to staff, assigning responsibility for managing and monitoring it and reporting against it. Individual NSOs said they were managing the risk as well as they could but said further support would allow them to manage it better, especially at sub-elite levels. NZ Football and NZ Rugby work closely with the TAB and some international betting agencies to monitor and analyse betting patterns.

**NSOs ARE ADOPTING POLICIES TO COUNTER MATCH-FIXING BUT IMPLEMENTATION IS PATCHY**

25. Twenty-two survey submitters and five email submissions (including the submission from 24 NSOs and Paralympics NZ) submitted saying they were recipients of funding from Sport NZ and/or High Performance Sport NZ and thereby obliged to adopt the New Zealand Policy on Sports Match-Fixing and Related Corruption.<sup>45</sup>

26. The consultation suggests key components of the policy are not being widely adopted.

**NSOs experience of complying with the policy**

27. Survey responses to question MF14a are shown below.

**TABLE MF5: SURVEY SUBMISSIONS ON MF14A: DOES YOUR ORGANISATION COMPLY WITH THE NEW ZEALAND POLICY ON SPORTS MATCH-FIXING AND RELATED CORRUPTION?**

Option	Yes	No	I don't know	Total responses
Number of survey submitters	7	1	8	16
Percentage of survey submitters	44%	6%	50%	100

<sup>45</sup> <https://sportnz.org.nz/assets/Uploads/attachments/managing-sport/integrity/New-Zealand-policy-on-sports-match-fixing-and-related-corruption.pdf>

28. All four email submitters who addressed this question (including one representing 24 NSOs and Paralympics NZ) said that, to the best of their knowledge, they comply with the New Zealand Policy on Sports Match-Fixing and Related Corruption.

29. Survey responses to question MF14c are shown below.

**TABLE MF6:  
SURVEY SUBMISSIONS  
ON MF14C: DOES YOUR  
ORGANISATION NEED MORE  
SUPPORT IN THIS AREA?**

Option	Yes	No	I don't know	Total responses
Number of survey submitters	4	6	5	15
Percentage of survey submitters	27%	40%	33%	100

30. These questions suggest that a reasonable number of people in organisations obliged to adopt the New Zealand Policy on Sports Match-Fixing and Related Corruption are unsure as to whether their organisation complies with the policy, and that their organisations may need more support.

31. Survey responses on the implementation of particular aspects of the policy are set out below.

#### **The policy obliges NSOs to have match-fixing rules**

32. As noted above, 22 survey submitters and five email submitters said their organisations were obliged to adopt the New Zealand Policy on Sports Match-Fixing and Related Corruption. However, only seven survey submitters (and the parties behind five email submissions) said their organisations had adopted rules regarding how the NSO will prevent and respond to match-fixing activity, and the expectations and requirements of its athletes and the broad entourage. This is a key part of the Policy, set out in section 8.

33. Only five survey submitters and three email submitters used the model match-fixing rules provided by Sport NZ. NZ Rugby is somewhat different, in that its rules are adequately aligned with Sport NZ rather than based on them per se. Only four survey submitters and three email submitters found the model rules useful.

34. Only two survey submitters answered question MF9, which asked what additional support organisations needed to adopt match-fixing rules. This suggests NSOs have adopted match-fixing rules but awareness of the implications of this is low within organisations.

#### **The policy obliges NSOs to run a match-fixing education programme**

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



36. The paragraphs above suggest this is not occurring, as do the results of question MFII set out below.

**TABLE MF7:  
SURVEY SUBMISSIONS  
ON MFIIA: HAS YOUR  
ORGANISATION IMPLEMENTED  
A MATCH-FIXING EDUCATION  
PROGRAMME?**

Option	Yes	No	I don't know	Total responses
Number of survey submitters	5	8	4	17
Percentage of survey submitters	29%	47%	24%	100

37. Four email submissions (including the submission from 24 NSOs and Paralympics NZ) said their organisations had match-fixing education programmes in place. One NSO said they do not have a specific programme in place.

38. Only 35 percent of survey submitters said they did not need more support in this area. Two email submitters addressed this question, with one saying they could use more support.

39. This suggests a key obligation within the New Zealand Policy on Sports Match-Fixing and Related Corruption is not being implemented.

**The policy obliges NSOs to have to have protection and support mechanisms**

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

41. Protection mechanisms include security measures restricting access to participants from nonessential personnel at matches and limiting or prohibiting participants' use of electronic communication devices in restricted areas/times during matches.

42. Support mechanisms include having confidential reporting processes in place and having a pre-determined procedure to keep an individual safe who has been approached by a match-fixer.

43. Submissions on question MF12a are presented below.

**TABLE MF8:  
SURVEY SUBMISSIONS  
ON MF12A: HAS YOUR  
ORGANISATION IMPLEMENTED  
PROTECTION AND SUPPORT  
MECHANISMS AROUND  
MATCH-FIXING?**

Option	Yes	No	I don't know	Total responses
Number of survey respondents	5	7	6	18
Percentage of survey respondents	28%	39%	33%	100

44. As shown, only 28 percent of survey submitters could say their organisations had implemented protection and support mechanisms.
45. All five email submitters who addressed this question (including the submission from 24 NSOs and Paralympics NZ) said they have implemented protection and support mechanisms for personnel who may come into contact with, or be involved with, match-fixing activity or to limit risky situations where this might occur.
46. When asked if their organisations needed more help in this area, only 33 percent of survey submitters said no. The one email submitter on this question said yes.
47. As for education, this suggests a key obligation within the Policy is not being implemented consistently.

**Submitters are reasonably confident about who to tell**

48. The survey results for question MF13a are shown below.

**TABLE MF9:  
SURVEY SUBMISSIONS ON  
MF13A: IF A MATCH-FIXING  
ISSUE AROSE WOULD YOUR  
ORGANISATION KNOW WHO TO  
INFORM?**

Option	Yes	No	I don't know	Total responses
Number of survey respondents	10	4	3	17
Percentage of survey respondents	59%	23%	18%	100

49. All five email submitters who addressed this question (including the submission from 24 NSOs and Paralympics NZ) said they would know who to report match-fixing issues to.

## FURTHER GOVERNMENT INTERVENTION TO TACKLE MATCH-FIXING SHOULD BE EXPLORED

50. As set out above:
  - a. the risk of match-fixing is too significant to be ignored; and
  - b. sport organisations are struggling to do everything required to tackle this risk.
51. It seems that the policy settings for match-fixing are reasonable. We did not receive comments suggesting amendments to the law. We also received little indication that the New Zealand Policy on Sports Match-Fixing and Related Corruption was not fit-for-purpose. The Police are comfortable enforcing the law.
52. However, in order to help the Police do their job, those involved in sport need to:
  - a. be educated to be confident they can recognise, rebuke and report match-fixing attempts
  - b. receive advice on protection and support measures organisations should take
  - c. know what information to report and who to report it to.
53. We think there is merit in exploring the idea of central government funding a match-fixing education function, as well as a central repository for receiving, collecting and handling intelligence.
54. Work would need to be undertaken to ascertain the cost and the best location for these functions. However, we note:
  - a. DFSNZ has links with sports and experience in running an education programme through its mandate to tackle doping
  - b. Finland and Denmark have co-located their anti-doping and anti-match-fixing functions within an agency<sup>46</sup>
  - c. DFSNZ is rolling out a refreshed whistleblowing programme, which combines education on what to report with intelligence collection after education sessions, in addition to traditional approaches – this could work just as well for match-fixing
  - d. This report recommends exploring increases to DFSNZ's funding, specifically for its anti-doping education programme and its collection of intelligence. Synergies between these proposals and what would be needed to launch equivalent match-fixing programmes should be explored.
55. The match-fixing intelligence collection point, whether DFSNZ or another organisation, could hand intelligence to other organisations where appropriate, e.g. the Police, NZRB, NSOs, Sport NZ, etc. There would be barrier to having staff from these organisations seconded to the organisation if that was useful.
56. Any new initiative to launch new central government functions should involve consultation with the players associations, NSOs, Police, NZRB, and other relevant organisations.

<sup>46</sup> The Finnish Center for Integrity in Sports and Anti-Doping Denmark, respectively.

## NEW ZEALAND SHOULD INVESTIGATE SIGNING THE MACOLIN CONVENTION

58. The Convention aims:
  - a. to facilitate national co-ordination and international co-operation against the threat of the manipulation of sports competitions, whether this is linked to criminal activity or to sports betting, or not
  - b. to establish a set of standards and measures at international level to be implemented by public authorities, sport organisations and betting operators in order to prevent and combat manipulations of sports competitions
  - c. to set up an international framework for the monitoring of these measures.
59. Australia became the 32nd country to sign the Convention in early-2019. Australia is the first party to sign outside of Europe.
60. New Zealand supports the general intent of the Convention but has not signed to become a party. Some of the obligations on parties would entail a cost to New Zealand, and potentially legislative changes. If a government-provided match-fixing education programme and central reporting point were established, these institutions would go a long way to meeting these obligations, meaning additional costs were minimal.
61. The Convention is a multilateral Treaty which means there is a strict process that must be followed to consider the costs and benefits before New Zealand could sign the Convention. This includes:
  - a. officials preparing a national impact analysis (NIA) to set out the costs and benefits to New Zealand of becoming a party to the agreement
  - b. Cabinet approving the final text of the agreement and giving authority for New Zealand to sign it
  - c. the Treaty and NIA being presented to the House of Representatives
  - d. Select Committee considering the Treaty, NIA, and any public submissions on the document, and reporting back to the House. If the Select Committee has recommendations to Government, a Government response to these must be tabled within 90 days of the report.
62. The risk of match-fixing infiltrating New Zealand sport is directly related to the international connectivity and global interest in New Zealand sport. An international framework for protecting against match-fixing could be hugely beneficial. The Macolin Convention is the only international, legally-binding instrument that can secure global co-operation against the manipulation of sports.



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SPNZ0003I  
September 2019