

INTEGRITY SPORT AND RECREATION BILL

Legislative Statement – First Reading

Presented to the House of Representatives in accordance with Standing Order 272

1. This legislative statement supports the first reading of the Integrity Sport and Recreation Bill (the Bill). The Bill implements a single broad policy to strengthen and protect the integrity of New Zealand's sport and recreation sector by establishing an independent body, the Integrity Sport and Recreation Commission, and consolidating integrity functions within it.

Background

2. Reports into New Zealand's sport and physical recreation sector found that there is insufficient capability to deal with integrity-related issues, in particular the management and resolution of complaints made by athletes and other participants. Participants had concerns about the independence and accessibility of existing integrity functions. The Play, Active Recreation and Sport Integrity Working Group (IWG) recommended the establishment of an independent body to promote and protect the safety and wellbeing of participants by preventing and addressing threats to integrity.

Provisions of the Integrity Sport and Recreation Bill

The Integrity Sport and Recreation Commission

3. The Bill establishes the Integrity Sport and Recreation Commission and sets out its powers and functions. The Act will come into force no later than 1 July 2024.
4. The Commission will be an independent Crown entity with a Board of seven to nine members. The Board is required to have a mix of knowledge and experience, including at least two members with experience and expertise in te ao Māori and tikanga Māori.

Scope of the Commission's work

5. The Commission's role will be to promote integrity in sport and physical recreation for participants. The meaning of participants is deliberately broad and includes athletes, non-competitive participants, coaches, match officials, parents, administrators, and volunteers.
6. The Commission will have wide-ranging functions to help lift the capability of the sport and recreation sector (the sector) to prevent and address integrity issues and provide independent dispute resolution mechanisms. Its functions include providing education and guidance, developing and issuing integrity codes, and investigating and resolving integrity issues.
7. The Bill provides that the Commission must establish procedures which protect participants' human rights, promote the best interests of children and young people, reflect participants' psychological, cultural, and other needs, and be responsive to tikanga Māori and the rights and interests of Māori.

8. The Commission will have a responsibility to prevent and address threats to integrity. Threats to integrity encompass a range of behaviours that undermine the safety and fairness of sport and physical recreation including:
 - a. competition manipulation, match-fixing and the misuse of inside information for sports betting
 - b. the use of prohibited substances and doping methods in sport
 - c. bullying, violence, abuse, sexual misconduct, intimidation, harassment, racism or other discrimination
 - d. corruption, fraud and other deceptive behaviour or breaches of trust
 - e. the failure of an organisation to take reasonable measures to prevent the behaviours at (a) – (d), and
 - f. the failure of an organisation to take reasonable measures to safeguard children.
9. The types of conduct that are captured within the definition of threat to integrity may engage other regulatory regimes (e.g. employment relations, health and safety regulation) or constitute criminal offences (e.g. match-fixing). The Bill enables the Commission to refer all or part of a matter to another person or body if it is more appropriate for that person or body to deal with the matter.

Integrity codes

10. The Bill empowers the Commission to develop and issue integrity codes. The integrity codes will be secondary legislation and can address a range of matters including setting minimum standards of conduct, prescribing processes and procedures for resolving complaints and disputes about integrity-related matters, and requiring organisations to report integrity issues of serious concern to the Commission.
11. Sport and physical recreation organisations will be able to adopt integrity codes on an opt-in basis. This approach is appropriate as many sport and recreation organisations are small, volunteer-run organisations with limited capacity. The Commission will provide advice, guidance, and education to raise the capability of organisations and support them to adopt and comply with integrity codes.
12. Members of organisations that have adopted a code will also be bound by the code. It is expected that organisations that adopt the code will be required to inform their members and obtain their agreement to be covered (for example, by agreeing to the code when registering for membership of a sports club).

Sports anti-doping

13. The Commission's functions will include the sports anti-doping functions currently delivered by Drug Free Sport New Zealand (DFSNZ). The Bill disestablishes DFSNZ and transfers all its functions, powers and obligations to the new Commission. New Zealand's sports anti-doping regime has a strong reputation and is internationally well-regarded. The Bill is intended to maintain this by preserving existing powers associated with sports anti-doping and ensuring that the knowledge and expertise within DFSNZ is transferred to the Commission.

14. This means that the Commission will be responsible for implementing the World Anti-Doping Code. To enable that, the Bill provides that the Commission will have the power to do anything necessary to implement the World Anti-Doping Code including making anti-doping rules. This is a continuation of DFSNZ's existing powers under the Sports Anti-Doping Act 2006.
15. Anti-doping rules are secondary legislation. The Bill retains the existing consultation requirements for anti-doping rules which require consultation with athletes, national sporting organisations, the Sports Tribunal, the Privacy Commissioner prior to making anti-doping rules, and adds an additional requirement to consult with Māori.

Investigating and resolving integrity matters

16. Athletes and other participants have identified concerns about the perceived independence and accessibility of existing complaint mechanisms within sport and physical recreation organisations as barriers to raising and resolving integrity issues.
17. The Bill will address this by providing independent methods for resolving disputes, investigating suspected breaches of integrity codes and determining sanctions in relation to breaches. The Commission will have powers to investigate suspected breaches of an integrity code either in response to a complaint or on its own initiative. Investigations can be in respect of an organisation or participants that are bound by an integrity code or, if it is in the public interest, into organisations or participants that are not bound by the code.
18. The Commission will be able to compel specified organisations to provide information or documents that are necessary to an investigation. These include Sport and Recreation New Zealand and its subsidiaries, the New Zealand Olympic Committee, Paralympics New Zealand, a national sporting organisation or an affiliate organisation, or a national recreation organisation. The Commission can seek orders through the District Court if a specified organisation fails to comply with the request for information or documents.
19. The Bill provides mechanisms to hold individuals and organisations accountable for breaches of an integrity code. A code may prescribe reasonable and proportionate sanctions for breaches by an individual. Sanctions relate to their participation in sport and recreation (e.g. exclusion from participating for a specified period of time). Sanctions will generally be determined and applied through the relevant organisation's disciplinary process pursuant to an integrity code. The Commission may convene a disciplinary panel to determine sanctions in place of an organisation when, for example, an organisation is unable to run a fair disciplinary process. A code can also prescribe reasonable and proportionate actions that an organisation must take by way of remedy if it breaches an integrity code (e.g. making an apology, compensation, or taking steps to remedy non-compliance).

Protections for participants who raise integrity matters

20. The Bill provides protections for participants and other people that make a complaint or provide information to the Commission. The Bill requires that the Commission keep confidential information that could identify a complainant or a person who has provided information to the Commission. This would only be disclosed by the Commission in limited circumstances.

21. Participants will also be protected from retaliation or victimisation by an organisation or another person if they complain or provide information to the Commission. Retaliation or victimisation against a person would constitute a breach of an integrity code. If an integrity code does not apply, then victimisation of a person will be unlawful under the Human Rights Act 1993 and the remedies under that Act would be available.
22. These protections will support the supply of information to the Commission without fear of retaliation and responds to concerns from participants that raising integrity issues could affect their selection, funding and ongoing participation.

Other provisions and transitional arrangements

23. The Bill requires the responsible Minister to, within 5 years of the Act coming in force, commence a review of how widely and effectively integrity codes have been implemented.
24. The Bill makes consequential amendments to other Acts including to:
 - Repeal Part 2 of the Sports Anti-Doping Act 2006 and rename it the Sports Tribunal Act 2006
 - Expand the jurisdiction of the Sports Tribunal to include disputes arising under an integrity code and appeals from decisions of the Commission's disciplinary panel or an organisation's disciplinary panel that has applied an integrity code
 - Remove the cap on Sports Tribunal members to allow the Tribunal to manage its expanded jurisdiction
 - Consequentially amend Sport New Zealand's functions under the Sport and Recreation New Zealand Act 2002 to exclude responsibility for disputes to which the Integrity Sport and Recreation Act would apply, and
 - Add the Commission to Schedule 2 of the Protected Disclosures (Protection of Whistleblowers) Act 2022 as an example of an appropriate authority to receive disclosures about sport and recreation.
25. The Bill sets out transitional arrangements to facilitate the disestablishment of DFSNZ, including to:
 - Set out the consequences of DFSNZ being disestablished including that all employees of DFSNZ (except the Chief Executive) will transfer to the Commission and all property, information, contracts, rights and obligations of DFSNZ become those of the Commission, and
 - Ensure that tests, proceedings or other matters which DFSNZ are dealing with or considering prior to the new legislation coming into force are preserved and must be dealt with under the Sports Anti-Doping Act 2006.