



department for
**culture, media
and sport**

Consultation on establishing a modernised UK Anti-Doping Organisation

July 2009

Our aim is to improve the quality of life for all through cultural and sporting activities, support the pursuit of excellence, and champion the tourism, creative and leisure industries.

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1: Introduction

Summary

1. On 4 February 2009 the Minister for Sport, Gerry Sutcliffe, confirmed the intention to create a new National Anti-Doping Organisation (NADO) by the end of the year. The new NADO, provisionally titled 'United Kingdom Anti-Doping' (UKAD), will take on existing testing and education responsibilities from UK Sport, whilst also having significant new powers to ensure Britain is best-placed to tackle doping in sport in the run-up to London 2012 and beyond.
2. Recommendations for a new NADO were first made by UK Sport's Board in December 2007 in recognition of the need for greater links with law enforcement agencies. It also considered that the resulting increase in scale for the anti-doping operation meant the role of the NADO had outgrown its current position within UK Sport. Key aspects of the new NADO for the UK are that it should:
 - Take responsibility for decisions about whether or not an athlete has committed an anti-doping rule violation, and have the authority to present cases to a disciplinary panel, responsibilities that currently sit with the national governing bodies of sport
 - Have stronger, more effective partnerships with law enforcement agencies to fight the trafficking and supply of prohibited substances
 - Be a stand alone agency, to maintain the single focus necessary to drive through the increase in scale for the anti-doping operation
3. Stakeholder Forums were held in London, Edinburgh and Cardiff in April 2008 as part of UK Sport's commitment to fully communicate and engage with partner organisations on the development and establishment of a new NADO for the UK.
4. The Government now wishes to invite comments on the future composition of the new NADO around four main themes:
 - **Policy framework** – we would like to consult over an all-embracing National Anti-Doping Policy (NADP) through which the powers and authority of UKAD will be established. This will build upon the NADP currently in place
 - **Information sharing powers** – as UKAD will be seeking closer working relationships with law enforcement we would like to consult over the processes and mechanisms by which they seek to share information
 - **Statutory framework** – anti-doping does not have a statutory framework in the UK and the intention is to establish UKAD via an administrative policy framework, as is the case with the current UK Sport NADO. However, we are

aware that some other countries across the world have taken a statutory approach, and we would therefore welcome views as to whether this could be something we consider, for the future, in the UK

- **Funding** – we would like to consult over whether current funding levels are appropriate, whether public funding should continue to be the sole source for anti-doping and what other sources of funding could be used.
5. This document seeks comments from all interested parties on these themes, which are set out in more detail in section 2. A summary of consultation questions is set out in section 3. The consultation will be of particular interest to:
- Home Country Sports Councils and Sports' National Governing Bodies (NGBs)
 - Athletes and Athlete Support Personnel
 - UK wide law enforcement agencies

Consultation Process

6. The consultation period will run for 12 weeks from **1 July to 23 September 2009**.

Please send your comments, before the closing date, to:

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Department for Culture, Media and Sport

2-4 Cockspur Street

London, SW1 5DH;

or by email to: ukad.consultation@culture.gsi.gov.uk

7. For enquiries about the consultation (handling) process only please contact the DCMS Public Engagement and Recognition Unit (PERU) at the above address or email using the form at www.culture.gov.uk/contact_us heading your communication "Consultation on establishing a modernised UK Anti-Doping Organisation".
8. A summary of responses will be published after the consultation closing date on the Department's website: www.culture.gov.uk
9. Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004).
10. If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which

public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

11. The Department will process your personal data in accordance with the DPA, and in the majority of circumstances, this will mean that your personal data will not be disclosed to third parties.
12. The consultation is guided by the Government's Code of Practice on Consultation which is available at: <http://www.berr.gov.uk/whatwedo/bre/code/page46954.html>

2: Proposals for consultation

Background

International Context

13. The International fight against doping in sport is coordinated by the World Anti-Doping Agency (WADA)¹. WADA is an independent non-governmental organisation, created through a collective initiative led by the International Olympic Committee following the Lausanne Declaration on Doping in Sport (1999). It is funded equally by the Olympic Movement and the governments of the world to enhance, supplement and coordinate existing efforts to educate athletes about the harms of doping, reinforce the ideal of fair play and sanction those who cheat themselves and their sport.
14. The World Anti-Doping Code (Code) is a core document that provides a framework for the harmonisation of anti-doping policies, rules and regulations across all sports and all countries in the world. Governments, including the UK Government, have made a commitment to the Code and have formally recognised the role of WADA through the Copenhagen Declaration on Anti-Doping in Sport (2003)² and the UNESCO International Convention against Doping in Sport, ratified in April 2006.³

Anti-Doping in the UK

15. UK Sport, as the country's national anti-doping organisation (NADO), is currently responsible for delivering the UK's anti-doping policy.⁴ In doing this UK Sport, in conjunction with the UK Government and WADA, developed the UK National Anti-Doping Policy and supporting documentation for all UK and home country sport organisations and participants.
16. The Policy sets out UK Sport's commitment to the World Anti-Doping Code, and outlines the roles and responsibilities of all parties involved in the anti-doping process. Through the Policy, UK Sport aims to:
 - Protect athletes and other participants in sport in the UK

¹ <http://www.wada-ama.org/en/>

² <http://www.wada-ama.org/en/dynamic.ch2?pageCategory.id=272>

³ <http://www.wada-ama.org/en/dynamic.ch2?pageCategory.id=273>

⁴ http://www.ukssport.gov.uk/pages/drug_free_sport/

- Promote doping-free sport in the UK
 - Establish consistent standards of anti-doping policy, testing and education across the UK
 - Encourage and build upon national and international harmonisation of anti-doping in sport
17. The Policy, which brings the UK in line with the World Anti-Doping Code, is applicable not only to all sports that are part of UK Sport's anti-doping programme, but also all sports which receive funding from either UK Sport or one of the home country sports councils. The Policy is accompanied by a set of template anti-doping rules which governing bodies of sports can use to ensure compliance with all mandatory provisions of the Code.
18. Historically, responsibility for anti-doping regulation and enforcement within sport in the UK has rested with the National Governing Body (NGB) for each sport who has responsibility for delivering part of the anti-doping programme (i.e. where an anti-doping rule violation has occurred). Within this framework, UK Sport has established first class testing and education programmes and co-ordinated relevant anti-doping research.

New approach to Anti-Doping

19. In 2006 WADA initiated a global consultation on the Code and the way in which doping in sport could most effectively be tackled. This consultation resulted in a revised Code, ratified at the 3rd World Conference on Doping in Sport in Madrid in 2007, and the focus of WADA on a 'new paradigm' of anti-doping.
20. Essentially, this new paradigm sets out that the 'traditional' approach to testing athletes would not tackle those violations such as trafficking in, possession of, and supply of prohibited substances and methods. It has called for a greater focus on developing the capabilities to address these violations, namely a greater focus on anti-doping organisations and law enforcement bodies working together to tackle those who supply and administer doping substances, and to detect those anti-doping violations which cannot be found through testing alone.

UK Review of its Anti-Doping capabilities

21. At the same time, UK Sport has continued to review and assess its ability to implement an effective anti-doping programme as the lessons from implementation of the Code, both in the UK and internationally, have been learned.
22. In 2007 UK Sport established a Working Group in order to look again at its own practices and the relationship that it has with NGBs and other key organisations in the fight against doping to assess whether it is well positioned to adopt global 'best practice' in all these areas. It also considered whether the current framework with NGBs responsible for implementing part of the anti-doping process was the most effective set up.

23. The Working Group also looked at what a world leading NADO should look like in this new environment and the step changes needed to meet the new challenges; producing a report of its conclusions for the UK Sport Board.
24. In December 2007, UK Sport's Board recommended to Government the need for the creation of a new, stand-alone NADO as part of an approach to modernise the way the UK tackles doping in sport. It further recommended that the new NADO would take on UK Sport's existing anti-doping responsibilities, as well as enhanced additional powers and functionality.
25. Key recommendations were that the new NADO should:
 - Take responsibility for determining whether there is a case to answer for all alleged anti-doping rule violations, and have the authority to present cases to a disciplinary panel, responsibilities that current sit with the national governing bodies of sport
 - Have stronger, more effective partnerships with law enforcement agencies to fight the trafficking and supply of prohibited substances
 - Be a stand alone agency to maintain the single focus necessary to drive through the increase in scale for the anti-doping operation
26. Detailed discussion of the rationale and policy objectives behind setting up the new NADO can be found in the accompanying Impact Assessment.
27. These recommendations were welcomed by the Minister for Sport, Gerry Sutcliffe, who tasked UK Sport with delivering a project plan for the establishment of the new NADO. A Project Board comprising representatives from the worlds of sport, law enforcement, anti-doping and government has been set up to help ensure the new NADO best meets the needs of the UK's sporting community.
28. On 4 February 2009 the Minister for Sport confirmed the intention to create a new NADO, provisionally titled 'UK Anti-Doping', by the end of the year.
29. The Government now wishes to invite comments on the future composition of the new NADO around four main themes, set out in more detail below:
 - Policy framework
 - Information sharing powers
 - Statutory framework
 - Funding

(i) THE NATIONAL ANTI-DOPING POLICY FRAMEWORK

Background

30. The new National Anti-Doping Policy (a draft copy of which is at Annex A) has been written to meet the UK's commitments to the World Anti-Doping Code (the 'Code') and the UNESCO convention. It does this by setting out the policy objectives and requirements of the UK Government and the Devolved Administrations in this field, and by identifying the roles and responsibilities of each of the UK Anti-Doping (as the UK's new National Anti-Doping Organisation, or 'NADO'), the Sports Councils, and the national governing bodies of sport in the UK ('NGBs') in delivering on and/or supporting those objectives and requirements. The Policy is owned by the Secretary of State for Culture, Media and Sport, and his counterparts in the Devolved Administrations, however the NADO is the custodian of the Policy and manages its operation on a day to day basis.
31. Since the inception of the Code in 2003, NGBs have been required, as a condition of receipt of public funding and publicly-funded services, to enter into agreements with their Sports Council funders and with UK Sport, committing to adopt, implement and enforce Code-compliant anti-doping rules with respect to athletes and athlete support personnel under their jurisdiction. Compliance with the requirements of the Code is therefore already a central and accepted part of day-to-day governance for the NGBs in the UK and set out in the current NADP policy framework. This consists of the National Anti-Doping Policy, the UK Anti-Doping Rules and the NGB Anti-Doping Agreement. Every NGB in receipt of public funding from a Home Country Sports Council or UK Sport is required to sign an NGB Anti-Doping Agreement with the NADO and the funding body.

Changes to the National Anti-Doping Policy

32. In most respects the new proposed National Anti-Doping Policy is an update of the current requirements. It incorporates the revisions to the Code that came into effect on 1 January 2009. It also simplifies the policy framework by replacing the current system (separate anti-doping agreements between the NADO and every NGB) with a single, stand-alone policy document that is to be incorporated by reference into the Sports Councils' funding agreements with NGBs.
33. However, certain aspects of the proposed National Anti-Doping Policy are new, and these are set out below:

Results management

34. NGBs will still be required to adopt Code-compliant anti-doping rules governing all athletes and athlete support personnel under their jurisdiction. (They would do this by adopting the UK Anti-Doping Rules issued by the NADO, but the Policy recognises there may be exceptions to this). (See section 4.2 of the Policy).

35. However, responsibility for managing the results of drug-testing conducted under the NGB's anti-doping rules, and/or other evidence of potential anti-doping rule violations (including evidence obtained through information-sharing with law enforcement and other public bodies: see section 2.6 of the Policy), in order to determine whether there is a case to answer, is to be transferred from the NGB to the NADO. (See section 2.7 of the Policy).
36. This centralisation of the results management function will give the NADO the exclusive responsibility (at its cost) to assess the available evidence in order to determine whether or not an athlete or athlete support personnel has a case to answer for violation of the anti-doping rules. It is expected this will be more efficient and effective than the current decentralised system, because of the greater level of expertise and resource available to the NADO. It will also promote consistency in approach across the UK, and remove any possible suggestion that the integrity of the process is tainted by apparent conflict on the part of the NGB.
37. At the same time, various checks and balances will be put into place in order to promote confidence in the system by ensuring the NADO exercises this exclusive results management responsibility fairly and responsibly. In particular:
- The NADO will be expressly required to exercise its powers responsibly and in good faith, taking into account both the strength of the evidence available to support the case and whether or not bringing the case would further the objectives of the Policy. (Section 2.7.1).
 - The NADO will be required to consult with the NGB and take its comments into account before determining that there is a case to answer. (Section 2.7.2).
 - If the NADO determines that there is a case to answer, that decision must be endorsed by an independent review board, with any comments made by the NGB brought to the attention of the review board. Without such independent endorsement, no case may be brought. (Sections 2.7.3 and 2.7.4).
 - As a non-departmental public body, the NADO will at all times be accountable to DCMS and (through DCMS) to Parliament and the Parliamentary Ombudsman. (Section 2.11).

Q.1: Do you see the intention to centralise the results management function in the new NADO as an improvement on the current, decentralised, arrangements?

Case presentation

38. Where the NADO determines that an athlete or athlete support personnel does have a case to answer for an anti-doping rule violation, it will be the NADO (not the NGB, as it is currently) that is responsible for presenting that case (at its cost) to a disciplinary tribunal and (where appropriate) to an appeal panel. (See section 2.8 of the Policy).

39. Once again, it is expected that this centralised approach will be much more efficient and effective than a decentralised approach, as well as more transparent and free of apparent conflict. It will also promote consistency of approach across sports in the UK.
40. Again, appropriate safeguards will be put in place:
- The NGB will have the right to be kept informed of the status of proceedings, to attend hearings as an observer should it so wish, and to appeal against any determination reached, if so advised. (Section 2.8.3).
 - Where the NADO proposes to dispose of a case by agreeing a sanction with an athlete or athlete support personnel prior to a hearing, the NADO will be obliged to consult with the NGB first, and the NGB will have a right to appeal against any such disposition if so advised. (Section 2.8.4).
41. However, the NADO will have the power to delegate the case presentation function back to any NGB that wishes to retain it, on terms that provide appropriate assurance that the process will be effective, transparent and fully accountable (including clear appeal rights for the NADO). (Section 2.8.5). It is expected that only one or two of the more resourced and experienced NGBs in this field will want to take advantage of this facility.

Q.2: Do you see the intention to centralise the case presentation function in the new NADO as an improvement on the current, decentralised, approach?

Disciplinary Proceedings (at first instance and on appeal)

42. Where a case needs to be heard by a tribunal (at first instance and/or appeal), it is to be referred exclusively to the publicly-funded National Anti-Doping Panel administered by Sports Resolutions (UK). (See section 4.7 of the Policy).
43. The benefit of this approach is that all cases are adjudicated by one central, publicly-funded panel of anti-doping experts, rather than by ad hoc panels that have to be organised and appointed by each NGB. The National Anti-Doping Panel is chaired by Peter Leaver QC and is composed of anti-doping experts from the legal, medical and scientific arenas, as well as ex-athletes and sports administrators.⁵
44. Apart from the potential efficiencies and cost-savings for the NGB and the confidence that athletes and the public can have in the independence of the Panel, referral of all cases to the National Anti-Doping Panel will ensure that the discretion afforded to tribunals under the Code is exercised properly, consistently, and fairly across all sports in the UK.

⁵ See the National Anti-Doping Panel website:
[www.http://www.sportresolutions.co.uk/default.asp?section=25§ionTitle=National+Anti%2Doping+Panel](http://www.sportresolutions.co.uk/default.asp?section=25§ionTitle=National+Anti%2Doping+Panel)

45. Once again, however, the NADO will have the power to agree with the NGB on terms for the referral of cases arising under the NGB's anti-doping rules not to the NADP but rather to the NGB's own sport-specific tribunal. (See section 4.7.2 of the Policy). Again there will need to be appropriate assurance that the process will be effective, transparent, and fully accountable. And again, it is expected that only a small minority of NGBs will prefer to retain jurisdiction over anti-doping cases for their own tribunals in this way.

Q.3: Do you agree with the approach to disciplinary proceedings as proposed?

Q.4: Do you agree that this will provide greater consistency across all sports?

Sanctions on athletes and athlete support personnel

46. Under the current policy, an athlete or athlete support personnel who is banned for a period on account of an anti-doping rule violation forfeits eligibility for future funding not only for the period of the ban but also, in certain cases, for longer periods (and for up to life in serious cases). That policy is now under review, however, because of a concern that imposing such additional consequences for anti-doping rule violations could unintentionally undermine the ability to enforce the sanctions prescribed by the Code.

47. In short, the Code establishes a detailed sanctioning scheme for anti-doping rule violations that is intended to ensure that the sanctions imposed are proportionate to the offence committed. However, if a finding of a violation would also trigger additional 'collateral' sanctions (i.e. sanctions imposed outside of the framework of the anti-doping rules themselves - such as Sports Council funding sanctions or ineligibility from competing at Major Events when an athlete is no longer serving a period of ineligibility under the anti-doping rules), then an athlete could argue that those 'collateral' sanctions also have to be taken into effect in the analysis of proportionality, and therefore a lesser sanction should be imposed under the anti-doping rules than would otherwise be required. In other words, there is a risk that a hearing panel may be dissuaded from imposing what it would otherwise consider to be a proportionate sanction under the Code because of the collateral sanctions that would also be imposed as a result of that decision.

Q.5: Do you agree that we should revise our policy of being able to impose longer periods of financial forfeits than the period of a ban, in certain circumstances, because of this concern?

Ensuring NGB compliance with the Policy

48. A further change relates to the way that NGB compliance with the requirements of the Policy will be enforced. Under the current anti-doping agreements between NGBs, their funding Sports Councils and UK Sport, instances of non-compliance would be referred up to the boards of UK Sport and/or the funding Sports Council (as applicable), to determine the nature and degree of non-compliance and the appropriate sanction to be applied. Under the new proposed

National Anti-Doping Policy, however, the NADO cannot unilaterally declare non-compliance or impose a sanction. (section 2.12).

- 49.** If the NGB does not agree that it is non-compliant, the NADO will have to prove the non-compliance alleged to the satisfaction of an independent arbitrator, appointed under the auspices of Sport Resolutions (UK). Where non-compliance is established, it would also be for the same independent arbitrator to determine what sanction is appropriate. As under the current arrangements, possible sanctions could range from a warning, up to a withholding of some or all publicly-funded services, and/or (in serious cases) of some or all public funding itself. The arbitrator will have to determine what sanction is appropriate, having regard to the objectives of the Policy and the nature and scope of the non-compliance in question. In addition, if the Secretary of State for Culture, Media & Sport issued guidelines for the exercise of the discretion afforded in relation to sanctions for non-compliance with the Policy (e.g., specifying that for particular types of breach, sanctions in a particular range should be considered), then the arbitrator will be required to take those guidelines into account in making his/her decision as to sanctions. The arbitrator's decision as to (non-)compliance and sanction would be final and binding on UKAD and the NGB, and also on any Sports Council or other body whose funding (and/or benefits or services) are implicated, who would have to recognise and give effect to the arbitrator's decision. (See Appendix Two of the Policy, para A2.5 et seq.).]

Q.6: Do you believe the new process for ensuring NGB compliance with the Policy is clear and appropriate?

(ii) INFORMATION SHARING POWERS

Background

50. Since the introduction of the 1st World Anti-Doping Code in 2003 the World Anti-Doping Agency (WADA), and anti-doping organisations around the world, have been looking at how to make the fight against doping as effective as possible, including looking more closely at what it calls the new paradigm in the fight against doping. Currently only three out of the eight listed anti-doping rule violations can be detected solely through the testing process (presence of a prohibited substance or method; refusing or failing to give a sample; and 'whereabouts' violations).⁶
51. To illustrate, since its creation in 2000 the US Anti-Doping Agency has built constructive links with law enforcement agencies. In 2003 the US Drug Enforcement Administration (DEA) raided The Bay Area Laboratory Co-Operative (BALCO) which was marketing and supplying undetectable designer steroids to high-profile sports stars in the United States and Europe. Operation Gear Grinder in 2005 and Operation Raw Deal in 2007 saw the DEA close amateur laboratories in Mexico and the United States which produced and sold steroids made from raw substances imported from China.
52. The key doping breakthroughs in recent years have not come from sports authorities acting alone, but from collaborative action between anti-doping authorities and law enforcement. For example, athletes and officials from the Austrian biathlon and cross-country ski teams were given lifetime Olympic bans due to intelligence from the Italian police that they were in possession of blood doping products and equipment during the 2006 Winter Olympic Games in Turin⁷. The Spanish police launched Operation Puerto in 2006 after raids at addresses in Madrid and Zaragoza uncovered anabolic steroids, blood transfusion equipment and more than 200 code-named blood bags, some of which were linked to leading professional athletes.

Action taken in the UK

53. In November 2007 a Cross-Departmental Working Group on Anti-Doping in Sport was set up to establish a consensus on the need for sharing information between

⁶ The eight anti-doping violations are: 1. Presence of a prohibited substance or method; 2. Use or attempted use of a prohibited substance/methods; 3. Refusing or failing to give a sample collection; 4. Whereabouts violations; 5. Tampering or attempting to tamper with any part of the doping control process; 6. Possession of prohibited substances/methods; 7. Trafficking or attempted trafficking of prohibited substances/methods; 8. Administration or attempted administration of a prohibited substance.

⁷ In this instance, the Italian Police were able to enter and search the athletes' residence because doping is a criminal offence in Italy. We are not proposing to create a criminal offence for the possession or use of doping substances.

law enforcement and the anti-doping organization, and to look at how best to achieve this. The Working Group contains representatives from the DCMS, UK Sport, Home Office, Advisory Council on the Misuse of Drugs (ACMD), Association of Chief Police Officers (ACPO), the Serious Organised Crime Agency (SOCA); HM Revenue and Customs (HMRC); Medicines and Healthcare Products Regulatory Authority (MHRA), the devolved administrations as well as other Government Departments and bodies.

Intelligence Requirements & Proposed Gateway

54. The intention is for UK Anti-Doping (UKAD) to have an intelligence analysis and information-sharing function with public and private bodies across the UK. The organisation will draw on a range of sports and law enforcement agencies to help gather tactical and strategic information. This information will inform the intelligent planning of tests and lead to targeted testing of specific athletes. It will also be used as 'evidence' to help tackle anti-doping rule violations that cannot be evidenced through testing athletes.
55. The Cross Departmental Working Group has looked at a number of different routes through which information sharing might be achieved, and has identified the Serious Organised Crime Agency (SOCA) and the UK Borders Agency (UKBA) as two organisations with whom the ability to share information is a priority. The latter reflects lessons learned from the Australian Sports Anti-Doping Agency (ASADA) who have found the ability to share information with their border agency has enhanced their ability to detect doping that would previously have been impossible to detect. In 2007/08, 27% of violations detected were as a result of ASADA's new investigative capabilities. Also, in 2007/08, there were 1,820 customs seizures of prohibited substances (all were referred to ASADA).
56. We are currently looking at ways to establish a formal information sharing 'gateway' between UKAD and both agencies by making amendments to legislation and using legislation that is currently in the process of being enacted, to remove any legal doubt as to the propriety of disclosing information to UKAD.
57. Law enforcement agencies will share information that comes into their possession during the course their normal investigative work. In this way we envisage the UKAD intelligence function can be delivered whilst keeping any additional resource burden on law enforcement agencies to a minimum. UKAD will also work closely with SOCA and the Association of Chief Police Officers to assess the potential impact on police bureaucracy.

Q.7: We welcome views on the intention to expand the focus of detecting anti-doping violations from testing athletes to also incorporate violations by others involved in the trafficking and supply of prohibited substances.

Q.8: Do you agree it is proportionate for law enforcement agencies to be sharing information with UKAD in this manner?

Q.9: We welcome all views on whether establishing 'statutory gateways' using existing and impending legislation is the best mechanism for sharing information.

58. UK Anti-Doping will be seeking to obtain and share information that will enable it to carry out its anti-doping function and detect rule violations. We are assessing the impact of data protection legislation and human rights legislation on this work as it is essential that personal information gathered when conducting anti-doping programmes continues to be protected both to meet legal standards and to ensure the continued confidence and trust of those who participate in organised sport. To this end we intend to conduct a separate Privacy Impact Assessment which will explore Data Protection Act compliance as well as information assurance issues - such as how data will be kept and other security considerations.

Q.10: We would welcome any initial views on issues concerning privacy, Data Protection and human rights, including types of information that should not be shared.

(iii) STATUTORY FRAMEWORK

59. The NADO is currently established through an administrative policy framework and it is the intention, at this time, to also do so with UK Anti-Doping. The powers and authority of UKAD will be established through the creation of the all-embracing National Anti-Doping Policy (discussed in an earlier section of this document). Compliance will be achieved and monitored by referencing the condition of compliance with the National Anti-Doping Policy in funding agreements between the DCMS and the Sports Councils, and in turn with the respective NGB.
60. In other countries NADOs have been established on a statutory footing. For example:
- The Australian Sports Anti-Doping Agency (ASADA) has its functions and powers contained in the Australian Sports Anti-Doping Authority Act 2006. This legislation allows it to exchange information with a range of government agencies at the state and federal level including customs, state and federal police and the Therapeutic Goods Administration amongst others.
 - The New Zealand Sports Anti-doping Act 2006 established Drug Free Sport New Zealand (DFSNZ) as an “Independent Crown Entity” which is not required to implement Government policy but is required to implement the World Anti-Doping Code (Code). This requires DFSNZ to investigate all potential Anti-Doping rule violations for which they have retained a private investigation company. The Act permits the exchange of information with customs, police and other relevant regulatory bodies.
 - Anti-Doping Denmark operates under the Act on the Promotion of Doping-free Sport of 22 December 2004.
 - Anti-doping in South Africa is regulated by The South African Institute for Drug-Free Sport Act 1997.
61. However other NADOs have a variety of different structures:
- In the Netherlands, there is no specific legal framework for their anti-doping authority. It currently shares information with law enforcement agencies on an informal and incidental basis but they are currently considering whether legislation is necessary to develop a more structural relationship with these agencies.
 - Anti-Doping Norway was created in 2003 by the Norwegian Sports Association and Olympic and Paralympic Committee (NIF) and Culture and Church Affairs (KKD) as an independent foundation. This was to ensure that the control and prosecution activities of doping cases are organised independently of the NIF and the state.
 - Anti-Doping activity in Canada is run by the Canadian Centre for Ethics in Sport (CCES) which is an independent, not-for-profit organisation charged with delivering a national anti-doping programme consistent with the Code.

62. As set out in the previous section, we are currently investigating the options available for establishing information sharing gateways through current legislation (both enacted and in the process of being enacted). However, the required information sharing provision could be included in founding legislation establishing UKAD through a statutory framework.
63. The benefit of this would be that it would give UKAD a clear mandate for information sharing with law enforcement agencies and would allow us to establish all the necessary arrangements under one Act, defining precisely which bodies UKAD would share information with and how this would work.
64. However, primary legislation is a lengthy process and one of the aims for UKAD is to be fully functioning in time for the London 2012 Olympic and Paralympic Games. This will mean establishing relationships and having information sharing mechanisms in place well in advance of the Games event period.
65. We believe that if we are able to use current legislation to achieve our primary aims in relation to information sharing, then this would be our preferred route to ensure that the best possible preparation to prevent the use, particularly through the trafficking and stockpiling, of performance enhancing drugs takes place in both the run up to the 2012 Games and beyond.

Q.11: While we are not proposing to establish a statutory basis for UK Anti-Doping at this time we welcome your views on whether this might be a route to consider in the future.

Q.12: We would welcome any views on formalising information sharing gateways in any establishing legislation for UK Anti-Doping.

Q.13: Is it right for the Government to bring forward legislation, for the first time, in this area?

(iv) FUNDING

66. Since its formation in 1997, UK Sport has performed the role of the UK’s National Anti-Doping Agency through its Drug Free Sport Directorate (DFS). DFS receives funding from the Grant in Aid allocation made to UK Sport by the Department for Culture, Media and Sport. DFS also earns income from conducting doping control tests on a commercial basis. Funding figures for DFS for the last three years are contained in the table below:

Year	Grant in Aid (£m)	Income from testing (£m)	TOTAL (£m)
2008/09	3.65	0.65	4.3
2007/08	2.97	0.63	3.6
2006/07	3.01	0.69	3.70

67. The budget for UKAD is set to increase to £7.2m per annum, due to the enhanced role the organisation will play in relation to case management and intelligence management.
68. Internationally, reflecting the position in the UK, the predominant source of funding for anti-doping is the public purse. For example: the South African Institute for Drug-Free Sport has an annual funding allocation from the national sports budget. Similarly the Ministry of Culture and Church Affairs provides annual funding for Anti-Doping Norway.
69. The Anti-Doping Authority of the Netherlands is funded by the Ministry of Health, Welfare and Sport (about 65%) and by the Netherlands Olympic Committee (about 30%). The Netherlands Olympics Committee funds the doping tests and the education of elite athletes, while the Ministry funds the infrastructure and the rest of the activities.
70. New Zealand’s National Anti-Doping Organisation is funded by the Government to carry out its anti-doping programme. In addition it receives some income from contracting out testing to other anti-drug organisation’s, national sports organisations and event organisers. Likewise the Canadian Centre for Ethics in Sport receives funding from Sport Canada (part of the Department of Canadian Heritage) and generates funding from fee-for-service work. The Australian Sports Anti-Doping Agency is funded through a mix of Federal Government appropriations and fee for service revenue.
71. However some countries rely less on central Government funding. The Finnish Anti-doping Agency (FINADA) is an independent, non-profit organisation funded mainly from lottery revenues allocated by the Finnish Ministry of Education. Denmark has a mixed approach to funding. Anti Doping Denmark’s basic funding is provided by the Danish Ministry of Culture (around 35%) whilst Danish sports organisations, including the Danish Olympic Committee, provide the other 65%.

Additionally, project specific funding is provided by the Ministry of Health and other external sponsors

Q.14: Do you agree that public funding is the most appropriate route for resourcing anti-doping?

Q.15: Are there others, who benefit from ethical sports, who could provide funding to UKAD?

72. Finally, we are determined to ensure that the new functions, policies and practices of UKAD comply with our public duties on race, disability and gender and to this end we will be carrying out an Equality Impact Assessment.

Q. 16: We would welcome your views on whether you think UKAD is likely to have any equality impacts relating to the following equality strands:

- Race
- Disability
- Gender (including gender identity)
- Age
- Sexual orientation
- Religion or belief

3: Summary of questions

You are invited to comment freely on any aspect of this consultation document. However, you may find it useful to refer to the checklist of questions below, which cover the main points on which we would particularly welcome views. Where possible, please be as specific as possible in your responses and explain, where appropriate, the reasons behind your agreement or disagreement with a proposal.

(i) The National Anti-Doping Policy framework

Q.1: Do you see the intention to centralise the results management function in the new NADO as an improvement on the current, decentralised, arrangements?

Q.2: Do you see the intention to centralise the case presentation function in the new NADO as an improvement on the current, decentralised, approach?

Q.3: Do you agree with the approach to disciplinary proceedings as proposed?

Q.4: Do you agree that this will provide greater consistency across all sports?

Q.5: Do you agree that we should revise our policy of being able to impose longer periods of financial forfeits than the period of a ban, in certain circumstances, because of this concern?

Q.6: Do you believe the new process for ensuring NGB compliance with the Policy is clear and appropriate?

(ii) Information sharing powers

Q.7: We welcome views on the intention to expand the focus of detecting anti-doping violations from testing athletes to also incorporate violations by others involved in the trafficking and supply of prohibited substances.

Q.8: Do you agree it is proportionate for law enforcement agencies to be sharing information with UKAD in this manner?

Q.9: We welcome all views on whether establishing 'statutory gateways' using existing and impending legislation is the best mechanism for sharing information.

Q.10: We would welcome any initial views on issues concerning privacy, Data Protection and human rights, including types of information that should not be shared.

(iii) Statutory framework

Q.11: While we are not proposing to establish a statutory basis for UK Anti-Doping at this time we welcome your views on whether this might be a route to consider in the future.

Q.12: We would welcome any views on formalising information sharing gateways in any establishing legislation for UK Anti-Doping.

Q.13: Is it right for the Government to bring forward legislation, for the first time, in this area?

(iv) Funding

Q.14: Do you agree that public funding is the most appropriate route for resourcing anti-doping?

Q.15: Are there others, who benefit from ethical sports, who could provide funding to UKAD?

Q. 16: We would welcome your views on whether you think UKAD is likely to have any equality impacts relating to the following equality strands:

- Race
- Disability
- Gender (including gender identity)
- Age
- Sexual orientation
- Religion or belief

Annex A: Draft UK National Anti-Doping Policy

Introduction

The UK Government and the Devolved Administrations condemn doping in sport and are committed to the pursuit of drug-free sport. They consider that this objective is best pursued through a partnership between government and the sports movement (in line with that represented on a global level by the World Anti-Doping Agency, or “WADA”), and through the harmonisation of anti-doping rules using the framework provided by the World Anti-Doping Code (the “Code”). Accordingly, by ratifying the UNESCO International Convention Against Doping in Sport (the “UNESCO Convention”), the UK Parliament has made a formal legal commitment, committing the UK Government as well as the Devolved Administrations to pursue drug-free sport based on the principles set out in the Code.

Acting with the guidance of the UK’s National Anti-Doping Organisation (the new non-departmental public body known as “UK Anti-Doping”, which has succeeded the Drug-Free Sport Directorate of UK Sport in this role) and with the support of UK Sport and each of the four Home Country Sports Councils, the UK Government and the Devolved Administrations have sought to satisfy the requirements of the UNESCO Convention by adopting the anti-doping policy framework set out in this document (the “UK National Anti-Doping Policy”, or “Policy”). The purpose of the National Anti-Doping Policy is to set out the policy objectives and requirements of the UK Government and the Devolved Administrations in the field of drugs in sport, and to identify the roles and responsibilities of each of UK Anti-Doping, the Sports Councils, and the national governing bodies of sport in the UK (“NGBs”), in delivering on and/or supporting those objectives and requirements.

This National Anti-Doping Policy will come into force on 1 December 2009, or such later date as may be announced, and may be amended as required from time to time (following due consultation about any material amendments with the sports movement and other relevant parties) to ensure it properly reflects governmental policy objectives and requirements in the field of drugs in sport.

Terms used in this Policy that begin with capital letters but are not defined in this Policy are used as defined in the Code or an International Standard. References in this Policy to the “UK Anti-Doping Rules” shall be to those rules adopted by an NGB in accordance with section 4.2 of this Policy.

1. THE OBJECTIVES OF THE UK NATIONAL ANTI-DOPING POLICY

- 1.1 Doping in sport is cheating. It is fundamentally contrary to the spirit of sport, endangers the health of Athletes and of those who emulate and aspire to join them, and undermines the otherwise positive impact of sport in society. Accordingly, the UK Government and the Devolved Administrations regard the elimination of doping in sport as an important public policy objective.
- 1.2 Eliminating doping in sport requires a commitment to harmonised anti-doping rules, and to consistent, transparent and accountable results management and sanctioning of Athletes and Athlete Support Personnel who commit anti-doping rule violations. It also requires a concerted and coordinated effort and partnership between the government and the sports movement to develop effective means of policing and enforcing the anti-doping rules.
- 1.3 WADA represents that public-private partnership at a global level, and the World Anti-Doping Code provides the framework for the adoption of clear and consistent anti-doping rules across all sports and all nations, around the world. That is why the UK Parliament has made a formal legal commitment, through its ratification of the UNESCO Convention, that the UK Government and the Devolved Administrations will work with sport, under the auspices of WADA and the Code, to eradicate doping in sport. This includes a commitment to adopt appropriate measures to implement the principles of the Code, as well as additional measures complementary to the Code, on a national level within the UK, along with specific commitments:
 - 1.3.1 to adopt and/or encourage the sports movement to adopt Code-compliant measures to prevent the use and possession of Prohibited Substances and Prohibited Methods by Athletes, unless based on a Therapeutic Use Exemption
 - 1.3.2 to adopt and/or encourage the sports movement and other competent bodies to adopt Code-compliant measures to sanction Athlete Support Personnel who commit anti-doping rule violations or other offences connected with doping in sport;
 - 1.3.3 where appropriate, to encourage and facilitate the implementation by sports bodies and anti-doping organisations of testing programmes that are consistent with the principles of the Code, including both In-Competition testing and No Advance Notice Out-of-Competition testing;
 - 1.3.4 to encourage competent bodies to develop and implement appropriate codes of conduct relating to doping in sport that are consistent with the Code;
 - 1.3.5 to encourage all of its public services and agencies to share information with Anti-Doping Organisations that would be useful in the fight against doping, where such sharing is not legally prohibited;

- 1.3.6 where appropriate, to withhold financial or other sports-related support from Athletes or Athlete Support Personnel during any suspension imposed on them on account of an anti-doping rule violation;
 - 1.3.7 where appropriate, to withhold some or all financial or other sports-related support from any sports body not in compliance with the Code or applicable anti-doping rules adopted pursuant to the Code;
 - 1.3.8 to bring all other governmental involvement in anti-doping in sport into harmony with the Code; and
 - 1.3.9 generally to support the mission of WADA in the international fight against doping.
- 1.4 This UK National Anti-Doping Policy has been issued as part of the effort to satisfy the requirements of the UNESCO Convention.

2. THE ANTI-DOPING ROLES AND RESPONSIBILITIES OF UK ANTI-DOPING

As the Government's policy advisor in relation to anti-doping in sport, and as the National Anti-Doping Organisation (as that term is defined in the Code) for the United Kingdom, UK Anti-Doping shall have the following anti-doping roles and responsibilities:

2.1 Code/UNESCO Convention

UK Anti-Doping will comply with the Code and will discharge in the United Kingdom the responsibilities that the Code confers on National Anti-Doping Organisations, including:

- 2.1.1 adopting and implementing Code-compliant anti-doping rules and policies, including effective operational policies and procedures for the collection of Samples, for the administration of TUE applications, and for the collection and use of whereabouts information;
- 2.1.2 cooperating with other Anti-Doping Organisations and other public agencies and services active in the fight against doping, including by developing protocols for the sharing of anti-doping intelligence;
- 2.1.3 pursuing diligently all potential anti-doping rule violations within its jurisdiction, including investigating whether Athlete Support Personnel or other persons may have been involved in cases of doping by Athletes;
- 2.1.4 ensuring that appropriate mechanisms exist for withholding public funding and/or publicly-funded services from Athletes or Athlete Support Personnel who commit anti-doping rule violations and/or from NGBs who fail to comply with the requirements of this Policy: and
- 2.1.5 promoting anti-doping research and education.

2.2 Influencing International Anti-Doping Policy

- 2.2.1 UK Anti-Doping will act as the main policy advisor to the UK Government in relation to anti-doping issues in sport, keeping it abreast of all relevant developments on a national and international level, and making recommendations for the amendment and supplementation of this Policy as required from time to time to reflect best practice.
- 2.2.2 UK Anti-Doping will cooperate with WADA and other relevant Anti-Doping Organisations in the coordination and implementation worldwide of a high quality and efficient anti-doping effort for sport.
- 2.2.3 UK Anti-Doping will conduct international advocacy for doping-free sport, including leading on the development of anti-doping standards

worldwide and ensuring that the views of the UK Government on all important anti-doping issues are heard and taken properly into account.

2.3 UK Anti-Doping Rules

- 2.3.1 UK Anti-Doping will publish and maintain a set of UK Anti-Doping Rules, implementing the requirements of the Code on a national level within the UK.
- 2.3.2 UK Anti-Doping will also publish and maintain the operational policies and procedures required for the effective implementation of the UK Anti-Doping Rules, including the UK Anti-Doping Procedures Guide for Sport.
- 2.3.3 UK Anti-Doping will keep the UK Anti-Doping Rules and related operational policies and procedures under review to ensure that they are consistent with the Code and the International Standards and reflect best practice in anti-doping.
- 2.3.4 UK Anti-Doping will offer guidance to NGBs as to the process to be followed in order for an NGB to adopt the UK Anti-Doping Rules effectively and efficiently so as to apply to and govern the conduct of Athletes and Athlete Support Personnel who are subject to the NGB's jurisdiction.

2.4 Anti-Doping Education and Research

In accordance with the requirements of Part Two of the Code and Part IV of the UNESCO Convention:

- 2.4.1 UK Anti-Doping will plan, implement, evaluate and monitor information and education programmes for doping-free sport, including programmes directed at young people, appropriate to their stage of development, in school and sports clubs, parents, adult athletes, sport officials, coaches, medical personnel, and the media.
- 2.4.2 UK Anti-Doping will promote and support active participation by NGBs, Athletes and Athlete Support Personnel in education programmes for drug-free sport.
- 2.4.3 UK Anti-Doping will cooperate with other stakeholders to coordinate efforts in anti-doping information and education in order to share experience and ensure the effectiveness of the education programmes in preventing doping in sport.
- 2.4.4 UK Anti-Doping will encourage and promote anti-doping research and take all reasonable measures to ensure that the results of such research

are used to promote the anti-doping effort in a manner consistent with the principles of the Code.

- 2.4.5 UK Anti-Doping will work with WADA to coordinate anti-doping research. Subject to intellectual property rights, UK Anti-Doping will provide copies of anti-doping research results to WADA and, where appropriate, will share those results with other relevant persons.

2.5 Testing

- 2.5.1 UK Anti-Doping will develop a Test Distribution Plan and a National Registered Testing Pool for sport in the UK, consistent with the principles set out in the Code and the International Standard for Testing. UK Anti-Doping will give due consideration, in this context, to an NGB's recommendations as to the number, type and spread of testing to be deployed in its sport, and as to how to select Athletes under its jurisdiction for testing; provided however that UK Anti-Doping will make the final decision on such issues.
- 2.5.2 UK Sport will maintain a pool of properly qualified Doping Control Officers to conduct testing in accordance with its Test Distribution Plan.
- 2.5.3 UK Sport will enter into arrangements for reciprocal testing with other National Anti-Doping Organisations, as appropriate.
- 2.5.4 UK Anti-Doping will make appropriate arrangements with the WADA-accredited laboratory at the Drug Control Centre, King's College, London, and/or other laboratories as necessary to enable the proper handling, storage and analysis of Samples collected by UK Anti-Doping, all in accordance with the Code and the International Standard for Laboratories.

2.6 Developing Other Anti-Doping Intelligence

- 2.6.1 UK Anti-Doping will put into place memoranda of understanding or similar arrangements as required with law enforcement and other public agencies and services to facilitate the sharing of anti-doping intelligence between such bodies and UK Anti-Doping.
- 2.6.2 UK Anti-Doping will also put into place procedures to facilitate the provision of anti-doping intelligence to it by NGBs, Athletes, Athlete Support Personnel, and others.
- 2.6.3 UK Anti-Doping will implement policies and procedures to ensure that all intelligence that it receives is handled safely and securely at all times, is assessed for relevance and reliability, and (where appropriate) is properly investigated and followed up (and/or referred to other agencies as required).

- 2.6.4 UK Anti-Doping will apply as appropriate the provisions of Code Article 10.5.3 (reduction of sanction in return for provision of Substantial Assistance in the discovery and/or establishing of anti-doping rule violations by others) to assist in obtaining anti-doping intelligence from Athletes and Athlete Support Personnel.

2.7 Results Management

- 2.7.1 UK Anti-Doping will have the sole and exclusive right to determine whether an Athlete or Athlete Support Personnel under the jurisdiction of an NGB has a case to answer for violation of the UK Anti-Doping Rules issued by that NGB in accordance with paragraph [4.2].⁸ It shall exercise that right responsibly and in good faith, and taking into account both (a) the likelihood of a charge of violation being upheld; and (b) whether or not bringing the charge would further the objectives of this Policy.
- 2.7.2 Before reaching a final determination as to whether there is a case to answer, UK Anti-Doping will consult with the relevant NGB and take its comments into account in good faith.
- 2.7.3 Any determination by UK Anti-Doping that an Athlete or Athlete Support Personnel has a case to answer for violation of the UK Anti-Doping Rules must be reviewed and accepted by an independent review board (or an independent administrative panel, in the case of whereabouts violations) before it can be actioned.
- 2.7.4 The information provided by UK Anti-Doping to the independent review board must include any comments made by the NGB during the consultation referred to at paragraph [2.7.2].

2.8 Case Presentation

- 2.8.1 Subject to paragraph [2.8.5], UK Anti-Doping shall have the exclusive right and responsibility:
- a. to charge an Athlete or an Athlete Support Personnel with violation of the UK Anti-Doping Rules;

⁸ This right shall apply only to violations arising, or discovered, after the date this Policy comes into effect.

- b. to present that charge to a disciplinary tribunal for hearing and determination; and
- c. to pursue or defend (as applicable) any application or appeal arising in relation to such proceedings.

- 2.8.2 UK Anti-Doping will be responsible for the costs incurred in exercising its rights under paragraph [2.8.1], subject to any right set out in the UK Anti-Doping Rules, the NADP Procedural Rules and/or the CAS Code of Sports-related Arbitration to seek an order shifting some or all of the costs to the Athlete or Athlete Support Personnel or other party.
- 2.8.3 The NGB may reserve to itself in the UK Anti-Doping Rules (a) a right to attend all hearings in an observer capacity; and/or (b) a right to appeal against any decision made pursuant to those rules. Otherwise, UK Anti-Doping will keep the relevant NGB informed as to the status of any proceedings brought by UK Anti-Doping against Athletes or Athlete Support Personnel who are subject to the NGB's jurisdiction.
- 2.8.4 Where it considers it appropriate, for example to minimise the burden on its limited anti-doping resources, UK Anti-Doping may agree terms with an Athlete or Athlete Support Personnel who has been charged with an anti-doping rule violation for disposition of the charge without a hearing. Such disposition shall include confirmation of the commission of the anti-doping rule violation(s) charged and agreement on the consequences to be imposed under the UK Anti-Doping Rules. Before making any such agreement, UK Anti-Doping will consult with the relevant NGB; provided that such consultation will be without prejudice to any right reserved to the NGB under the UK Anti-Doping Rules to appeal against any disposition subsequently agreed by UK Anti-Doping with the Athlete or Athlete Support Personnel.
- 2.8.5 UK Anti-Doping may enter into a written agreement with an NGB, delegating to the NGB some or all of the powers set out in paragraph [2.8.1]. UK Anti-Doping will consider any requests for such agreement in good faith, and will not refuse to enter into such agreement where appropriate terms and conditions are accepted by the NGB that protect and promote the objectives of this Policy, including safeguards that ensure transparency and accountability on the part of the NGB; provided that UK Anti-Doping shall not in any event waive its right to be a party to any disciplinary proceedings brought by an NGB pursuant to such an agreement, or its right of appeal against any decision made by the NGB or the disciplinary tribunal, in accordance with the UK Anti-Doping Rules.

2.9 Quality Assurance

- 2.9.1 UK Anti-Doping will abide by the warranties given at Part 1 of **Appendix One** to this Policy.
 - 2.9.2 UK Anti-Doping will carry out testing in compliance with the International Standard for Testing, in accordance with the provisions of Part 2 of **Appendix One** to this Policy, and taking into account the WADA Guidelines for Urine Sample Collection and for Blood Sample Collection.
 - 2.9.3 UK Anti-Doping will ensure that the analysis of any Samples that it collects is conducted in compliance with the International Standard for Laboratories and in accordance with the provisions of Part 3 of **Appendix One** to this Policy.
 - 2.9.4 UK Anti-Doping will administer applications for TUEs in compliance with the International Standard for Therapeutic Use Exemptions, and in accordance with the provisions of Part 4 of **Appendix One** to this Policy.
 - 2.9.5 UK Anti-Doping will administer a whereabouts programme for Athletes who are included the National Registered Testing Pool in compliance with the International Standard for Testing, further in accordance with the provisions of Part 5 of **Appendix One** to this Policy, and taking into account the WADA Guidelines for Implementing an Effective Athlete Whereabouts Programme.
 - 2.9.6 UK Anti-Doping will put in place appropriate policies and procedures to ensure that all items of anti-doping intelligence and data are handled in compliance with the International Standard for the Protection of Privacy, the Data Protection Act 1998, and all other applicable laws and regulations.
- 2.10 Confidentiality
- 2.10.1 UK Anti-Doping will put in place appropriate policies and procedures to respect and ensure the confidentiality of information as required by the Code and other applicable laws and regulations.
 - 2.10.2 UK Anti-Doping will not comment publicly on the specific facts of any pending case (as opposed to general description of process and science) except in response to public comments attributed to the respondent Athlete or Athlete Support Personnel or his/her representatives.
- 2.11 Accountability
- 2.11.1 UK Anti-Doping will be accountable to the Department of Culture, Media & Sport.
 - 2.11.2 UK Anti-Doping will be accountable to Parliament and to the Parliamentary Ombudsman through the Department of Culture, Media & Sport.

- 2.11.3 UK Anti-Doping will maintain ISO 9000-2008 certification, including submitting to annual inspection and auditing by the British Standards Institute.
- 2.11.4 UK Anti-Doping will make itself available for meetings with NGBs on at least an annual basis to discuss any matters of concern.
- 2.11.5 [To the extent that an NGB is held liable to an Athlete or Athlete Support Personnel in damages and/or costs as a result of the negligence or other fault of UK Anti-Doping in the discharge of its responsibilities under this Policy, then (provided the NGB has given UK Anti-Doping conduct of the matter and has done nothing to prejudice its position) UK Anti-Doping will indemnify the NGB in respect of the same.]
- 2.12 Monitoring NGB Compliance with this Policy
- 2.12.1 It shall be UK Anti-Doping's responsibility to monitor compliance by NGBs with the requirements of this Policy.
- 2.12.2 Where UK Anti-Doping considers that an NGB has failed to comply with the requirements of this Policy, UK Anti-Doping will follow the process set out in **Appendix Two** to this Policy. No determination of non-compliance shall be effective, and no consequences may be applied for non-compliance, except in accordance with that process.

3. THE ANTI-DOPING ROLES AND RESPONSIBILITIES OF THE SPORTS COUNCILS

Each of UK Sport, Sport England, sportscotland, Sport Northern Ireland and the Sports Council for Wales (each, a “**Sports Council**”) has the following anti-doping roles and responsibilities:

- 3.1 The Sports Council will support and be an advocate for this National Anti-Doping Policy, so that it is applied uniformly across the United Kingdom.
- 3.2 The Sports Council will support UK Anti-Doping in its role as National Anti-Doping Organisation for the United Kingdom.
- 3.3 Where the Sports Council learns of information suggesting or relating in any way to an apparent anti-doping rule violation by an Athlete or Athlete Support Personnel, it will immediately report that information to UK Anti-Doping. Thereafter it will support and cooperate fully with UK Anti-Doping in its investigation of that information.
- 3.4 The Sports Council will make compliance with the UK Anti-Doping Rules a condition of eligibility for receipt of public funding and/or publicly funded benefits by an Athlete or Athlete Support Personnel. It will ensure that it has the power, under the terms of its grant of funding and/or other benefits, to sanction non-compliance appropriately, including (a) the power to withdraw public funding or other benefits from an Athlete or Athlete Support Personnel during any period of Ineligibility imposed on the Athlete or Athlete Support Personnel for an anti-doping rule violation; and (b) the power to claw back public funding received by the Athlete or Athlete Support Personnel during the period of non-compliance.
- 3.5 Non-compliance by an Athlete or Athlete Support Personnel:
 - 3.5.1 Where an Athlete or Athlete Support Personnel who is a recipient of public funding and/or publicly-funded benefits from a Sports Council is charged with an anti-doping rule violation, the Sports Council will suspend provision of such funding and/or benefits pending hearing and determination of the charge, and will take all necessary steps to ensure that such person does not receive such funding or benefits indirectly (ie by means of assistance or benefits provided by the Sports Council via an NGB, including but not limited to coaching or professional staff salaries, coaching internships or apprenticeships) pending final determination of the charge; Provided That if it is finally determined that no anti-doping rule violation has been committed, or if it is finally determined that a violation has been committed but no period of Ineligibility is imposed, then any suspended payments shall be remitted by the Sports Council to the Athlete or Athlete Support Personnel as soon as possible and the

Sports Council shall reinstate access for that person to any relevant services.

- 3.5.2 If it is finally determined that an anti-doping rule violation has been committed and a period of Ineligibility is imposed, then:
- a. the suspended payments referenced in paragraph [3.5.1] shall be retained by the Sports Council; and
 - b. the Sports Council will exercise its contractual rights to repayment from the Athlete or Athlete Support Personnel of all or part of any funding provided to him/her by the Sports Council, either directly or via NGB, during the period when the anti-doping rule violation was committed.
- 3.6 The Sports Council will make compliance with this National Anti-Doping Policy a condition of eligibility for receipt of public funding and/or publicly funded benefits and services. The Sports Council will ensure that it reserves the power, under the terms of its grant of such funding and/or benefits or services, to enforce that condition in accordance with paragraph [3.7].
- 3.7 In the event that an NGB or other recipient of public funding or publicly-funded benefits or services from the Sports Council is determined (following the process set out in **Appendix Two** of this Policy) to have failed to comply with the requirements of this Policy, and the consequences applied for such non-compliance implicate said funding or benefits or services, the Sports Council shall take all necessary steps to implement those consequences.

4. THE ANTI-DOPING ROLES AND RESPONSIBILITIES OF THE NATIONAL GOVERNING BODIES OF SPORT IN THE UK

Each National Governing Body with responsibility for the governance and regulation of sport in the UK shall have the following anti-doping roles and responsibilities:

4.1 Recognition of and support for the National Anti-Doping Policy and for UK Anti-Doping

4.1.1 The NGB shall respect and promote the principles of this National Anti-Doping Policy, including recognising UK Anti-Doping as the National Anti-Doping Organisation (as that term is used in the Code) for the United Kingdom and fully supporting the efforts of UK Anti-Doping in the fight against doping in sport.

4.1.2 The NGB will designate one staff member who will be in charge of the NGB's anti-doping functions and satisfaction of its responsibilities under this Policy, including liaising with UK Anti-Doping as required. The NGB will ensure that such staff member is available to UK Anti-Doping as required in order to discuss matters of concern arising in relation to the NGB's responsibilities under this Policy.

4.2 Adoption of Code-Compliant Anti-Doping Rules

4.2.1 Each NGB shall adopt, bring into force and implement, as part of the rules and regulations applicable to Athletes and Athlete Support Personnel under its jurisdiction, anti-doping rules that UK Anti-Doping agrees are Code-compliant and consistent with this Policy. Any dispute as to whether the NGB's anti-doping rules are Code-compliant will be referred to WADA, whose decision shall be final.

4.2.2 Save for good cause shown (such as the mandatory requirements of the international federation of which it is a member), an NGB shall satisfy the requirements of paragraph [4.2.1] by adopting as its own the UK Anti-Doping Rules issued by UK Anti-Doping (as amended from time to time); provided that UK Anti-Doping shall permit such Code-compliant amending and/or supplementary provisions to the UK Anti-Doping Rules as the NGB may establish are required in the specific context of its sport.

4.2.3 Where an NGB shows good cause why it cannot adopt as its own the UK Anti-Doping Rules issued by UK Anti-Doping, the NGB shall give UK Anti-Doping an adequate opportunity to review the anti-doping rules that it proposes to adopt instead, and prior to the adoption of those rules

shall make such amendments to those rules as are required to [comply with the Code and to be consistent with this Policy.]

- 4.2.4 Each NGB shall provide UK Anti-Doping with a complete copy of its rulebook, including its anti-doping rules, as well as of each update or amendment thereto, upon adoption thereof, or such other evidence as may be sufficient to demonstrate compliance with the requirements of this section [4.2].
- 4.2.5 It is acknowledged that (a) certain of the persons who are subject to the NGB's jurisdiction may also be subject to the anti-doping jurisdiction of other Anti-Doping Organisations, including the international federation of which the NGB is a member, and (b) the same conduct of such persons may implicate not only the UK Anti-Doping Rules but also the anti-doping rules of such other Anti-Doping Organisations. In such circumstances, the jurisdictional and other issues that arise shall be resolved in accordance with the Code.
- 4.2.6 Where NGBs within a particular sport allocate responsibility amongst themselves for compliance with this Policy (e.g., a British governing body takes responsibility for compliance with this Policy on behalf of the English, Scottish and Welsh NGBs for that sport), they shall put in place in their respective constitutions provisions satisfactory to UK Anti-Doping to give effect to that allocation of responsibility and to ensure accountability at each level.

4.3 Education of Athletes and Athlete Support Personnel

Each NGB shall take all practical steps to educate its Athletes and Athlete Support Personnel on ethical values in sport and so that they are familiar with the principles of the UK National Anti-Doping Policy and the provisions of the UK Anti-Doping Rules, and in particular their own respective individual rights and responsibilities thereunder. This shall include (without limitation) reproducing the relevant provisions in the NGB's rulebook (if any) and posting them on the NGB's official website, alongside a link to the official website of UK Anti-Doping.

4.4 Therapeutic Use Exemptions ("TUEs")

- 4.4.1 Where the rules of the international federation of which it is a member create a Code-compliant mechanism for Athletes subject to an NGB's jurisdiction to obtain TUEs from the international federation or its delegate, the NGB may direct such Athletes to use that mechanism. Otherwise, however, the NGB shall adopt and implement the procedures

established by UK Anti-Doping for the grant of TUEs to Athletes under its jurisdiction.

- 4.4.2 If required by UK Anti-Doping after due consultation with the NGB, the NGB shall create a pool (to be known as the “**Domestic Pool**”) of Athletes who are not in the International Registered Testing Pool or the National Registered Testing Pool, but who shall also be required to obtain a TUE prior to use or possession of a Prohibited Substance or Prohibited Method. All other Athletes shall use the mechanism for application for retroactive approval of a TUE established by UK Anti-Doping.
- 4.4.3 Each NGB shall cooperate fully with UK Anti-Doping in relation to the processing of TUE applications by Athletes subject to the NGB’s jurisdiction, including (without limitation):
- a. providing to UK Anti-Doping copies of any TUE applications made by Athletes within the NGB’s jurisdiction to other Anti-Doping Organisations and of decisions made in relation to such applications; and
 - b. treating in confidence all medical and other information of which its personnel become aware in relation to TUE applications made by Athletes subject to its jurisdiction, and such personnel shall, if so required by UK Anti-Doping, sign appropriate undertakings to that effect.
- 4.4.4 The NGB shall provide such support as UK Anti-Doping may reasonably require in relation to any appeal that UK Anti-Doping may make against a decision of WADA or the UK TUE Appeal Panel to reverse a decision made by UK Anti-Doping or the UK Anti-Doping TUE Committee in relation to any TUE application made by an Athlete who is subject to the NGB’s jurisdiction.

4.5 Testing

- 4.5.1 The NGB shall cooperate with UK Anti-Doping and support it in the finalisation of its Test Distribution Plan for sport in the UK, including (without limitation):
- a. providing UK Anti-Doping with a calendar of events taking place in the period to be covered by the Test Distribution Plan;
 - b. providing UK Anti-Doping with information upon request about the number of Athletes under the NGB’s jurisdiction and the levels at which they compete; and

- c. sharing with UK Anti-Doping any information available to the NGB about testing being conducted on the NGB's Athletes by other Anti-Doping Organisations.

4.5.2 The NGB shall cooperate with UK Anti-Doping and support it in the implementation of its Test Distribution Plan with respect to Athletes under the NGB's jurisdiction, including (without limitation):

- a. confirming in its anti-doping rules the right of UK Anti-Doping to test any Athlete under the NGB's jurisdiction at any time;
- b. providing access to Athletes under its jurisdiction, and such other logistical and other assistance as may be required to facilitate the conduct of In-Competition Testing and Out-of-Competition Testing by UK Anti-Doping's Doping Control Officers in accordance with the Test Distribution Plan;
- c. assisting UK Anti-Doping as required in the implementation of its National Registered Testing Pool, including as regards notification and induction of Athletes who fall within the National Registered Testing Pool, and in the enforcement of such Athletes' obligations to provide personal details required for carrying out Testing, to file whereabouts information with UK Anti-Doping, and to make themselves available at such whereabouts for Out-of-Competition Testing; and
- d. ensuring that the details of testing to be conducted by UK Anti-Doping are not revealed in advance by NGB personnel other than to those who need to know such details in order for the testing to be implemented.

4.5.3 The NGB shall provide Independent Observers with access and appropriate accreditation to testing conducted at National Events, subject to reasonable advance notice.

4.5.4 UK Anti-Doping shall have the exclusive right to choose the WADA accredited laboratory/ies at which analysis of Samples collected pursuant to the Test Distribution Plan shall be conducted. In exercising this right, UK Anti-Doping shall take into account in good faith any relevant factors brought to its attention by the NGB.

4.5.5 Having consulted with the NGB, UK Anti-Doping may make directions in relation to matters regarding the analysis and disposal of Samples, including (without limitation) in relation to the re-analysis of Samples based on knowledge or information arising after the initial analysis of the Samples. The NGB shall comply with such directions.

4.5.6 UK Anti-Doping may agree terms for the provision of further testing services to any NGB or Anti-Doping Organisation on a contracted basis, whether or not UK Anti-Doping also conducts public interest testing on

the Athletes under the jurisdiction of that NGB or Anti-Doping Organisation.

- 4.5.7 For the avoidance of doubt, it shall not constitute non-compliance with this Policy for an NGB to contract with entities other than or in addition to UK Anti-Doping to collect Samples from Athletes on behalf of the NGB, provided that each such entity complies in all respects in the collection of such Samples with the International Standard for Testing, and provided further that the results of such testing are managed in accordance with section [4.6], below, and all such Samples are analysed at a WADA-accredited laboratory in accordance with the International Standard for Laboratories.

4.6 Results Management:

- 4.6.1 In its UK Anti-Doping Rules issued in accordance with paragraph [4.2], the NGB shall recognise the sole and exclusive right of UK Anti-Doping to determine whether an Athlete or Athlete Support Personnel under the NGB's jurisdiction has a case to answer for violation of the UK Anti-Doping Rules, and shall take all necessary steps to give effect to that right.
- 4.6.2 Where the NGB learns of information suggesting or relating in any way to an apparent anti-doping rule violation by an Athlete or Athlete Support Personnel under its jurisdiction, it shall immediately report that information to UK Anti-Doping. Thereafter it shall support and cooperate fully with UK Anti-Doping in its investigation of that information, including (without limitation) reporting any further information received on the same or any related subject. The NGB shall also provide the same support and cooperation for any investigation conducted by UK Anti-Doping into information obtained from any other source.
- 4.6.3 In accordance with paragraph [2.7.2], above, the NGB shall be entitled to be consulted by UK Anti-Doping before any final determination is made that there is a case to answer, provided that circumstances may require that such consultation is undertaken on an expedited basis. The NGB shall maintain in the strictest confidence any and all information shared with it by UK Anti-Doping in this or any other aspect of its anti-doping functions and responsibilities.
- 4.6.4 Where it is determined (in accordance with section [2.7], above) that an Athlete or Athlete Support Personnel under the NGB's jurisdiction has a case to answer for violation of the UK Anti-Doping Rules, then (subject to any contrary agreement made in accordance with paragraph [2.8.5], above) the NGB shall recognise the sole and exclusive right of UK Anti-Doping to bring and pursue disciplinary charges against that Athlete or Athlete Support Personnel.

- 4.6.5 UK Anti-Doping will provide the NGB with a copy of each and every notice that UK Anti-Doping issues, charging an Athlete or Athlete Support Personnel under the NGB's jurisdiction with a violation of the UK Anti-Doping Rules, and thereafter (where the NGB does not exercise its right to attend hearings as an observer) shall keep the NGB informed of the progress of the disciplinary proceedings.
- 4.6.6 The NGB shall cooperate with UK Anti-Doping's pursuit of disciplinary charges against the Athlete or Athlete Support Personnel, including (without limitation) by recognising and giving effect to any period of Ineligibility imposed (whether provisionally prior to the final hearing or after a final hearing) and/or any Disqualification of results.
- 4.6.7 The NGB may provide information and other support (e.g., referral to suitable legal and/or other advisors) to an Athlete or Athlete Support Personnel who is charged with violation of the UK Anti-Doping Rules. However, the NGB shall not in any circumstances act as advocate for the Athlete or Athlete Support Personnel.
- 4.6.8 Where an issue raised at the hearing requires the input of the NGB, then UK Anti-Doping will so advise the NGB, and UK Anti-Doping and the NGB will consult and cooperate with each other in relation to the resolution of such issue.
- 4.6.9 In accordance with paragraph [2.8.3], above, an NGB may reserve to itself in its anti-doping rules a right to appeal against any decision made by UK Anti-Doping and/or a tribunal under those rules.

4.7 Disciplinary Proceedings at First Instance and on Appeal

- 4.7.1 Subject to paragraph [4.7.2], the NGB shall recognise the sole and exclusive jurisdiction of the National Anti-Doping Panel to hear and determine any charges brought against an Athlete or Athlete Support Personnel for violation of the UK Anti-Doping Rules, and the sole and exclusive jurisdiction of the National Anti-Doping Panel (in the case of National-Level Athletes) or the Court of Arbitration for Sport (in the case of International-Level Athletes) to hear and determine appeals from decisions at first instance of NADP tribunals. The NGB shall take all necessary steps under its constitutional arrangements to give effect to that jurisdiction.
- 4.7.2 UK Anti-Doping may enter into a written agreement with an NGB, setting out the terms on which that NGB may refer disciplinary proceedings against an Athlete or Athlete Support Personnel under the NGB's jurisdiction for violation of the UK Anti-Doping Rules to a tribunal established under the NGB's rules, and/or any appeal arising out of such proceedings, not to the National Anti-Doping Panel but rather to a tribunal established by the NGB in accordance with its rules. UK Anti-

Doping will consider any requests for such agreement in good faith, and will not refuse to enter into such agreement where appropriate terms and conditions are accepted by the NGB; provided that UK Anti-Doping shall not in any event waive its right to be a party to any disciplinary proceedings brought pursuant to such an agreement, or its right of appeal against any decision made by the disciplinary tribunal, in accordance with the UK Anti-Doping Rules.

- 4.7.3 Where it has been determined, at first instance or on appeal, that an anti-doping rule violation has been committed, the NGB shall disclose the decision publicly no later than 20 days after the date of the decision, and in any event UK Anti-Doping may thereafter make such disclosure, unless an appeal is filed by the person who is the subject of the decision and the applicable rules prohibit public disclosure by any party pending resolution of the appeal; and
- 4.7.4 Where the appeal tribunal determines that an anti-doping rule violation has been committed, the NGB shall disclose the decision publicly no later than 20 days after the date of the decision, and in any event UK Anti-Doping may thereafter make such disclosure, unless any further appeal exists and is filed by the person who is the subject of the decision, and the applicable rules prohibit public disclosure by any party pending resolution of that further appeal.

4.8 Ineligible Athlete and Athlete Support Personnel

- 4.8.1 The NGB shall make compliance with all applicable anti-doping rules a condition of every contract it makes with, or licence or permission it grants to, an Athlete or Athlete Support Personnel (including, without limitation, licence or permission to make use of NGB facilities or services).
- 4.8.2 Where an Athlete or Athlete Support Personnel under its jurisdiction is Provisionally Suspended, the NGB will take all necessary steps in its power to recognise and give effect to that Provisional Suspension, including seeking recognition of the Provisional Suspension by other relevant bodies, and will procure that its members and affiliates do the same.
- 4.8.3 Where an Athlete or Athlete Support Personnel is found to have committed an anti-doping rule violation, the NGB will take all necessary steps in its power to recognise and give effect to the Disqualification of results, period of Ineligibility and/or other Consequences imposed on the Athlete or Athlete Support Personnel in relation to that anti-doping rule violation, including seeking recognition of the Ineligibility by other relevant bodies, and will procure that its members and affiliates do the same.

4.8.4 Where the NGB provides benefits or services to its Athletes or Athlete Support Personnel, the NGB will ensure that no Athlete or Athlete Support Personnel receives such benefits or services during any period of Provisional Suspension or Ineligibility.

4.9 Related Misconduct

4.9.1 In the event that a person who is subject to the NGB's jurisdiction commits an act of misconduct that relates to anti-doping but does not amount to an anti-doping rule violation, the NGB shall consider in good faith the bringing of disciplinary proceedings against that person for such misconduct, including consulting with UK Anti-Doping in relation thereto and taking its views into account in good faith.

4.9.2 Without prejudice to paragraph [4.9.1], where a person who is subject to the NGB's jurisdiction undermines or brings the UK's anti-doping efforts into disrepute by conduct other than an anti-doping rule violation, such as (by way of example but not by way of limitation) by using the services of a coach or other Athlete Support Personnel who has been finally determined, under the applicable anti-doping rules of an Anti-Doping Organisation, to have committed an anti-doping rule violation for which a period of Ineligibility has been imposed, then if such person fails, upon demand, to end that conduct, the NGB will take disciplinary action against that person as appropriate under its rules of conduct (which will include provisions for that purpose).

4.10 Consequences of Non-Compliance

4.10.1 Compliance with the requirements of this Policy shall be a condition of eligibility for receipt of public funding and of publicly-funded benefits and services.

4.10.2 UK Anti-Doping will monitor compliance by the NGB with the requirements of this Policy. To facilitate such monitoring, the NGB must disclose to UK Anti-Doping in writing and without delay any facts or circumstances that might reasonably be considered to amount to non-compliance, together with any explanation or justification offered for such non-compliance. The NGB must also provide such further information as UK Anti-Doping may reasonably require in relation to such non-compliance. Without prejudice to the foregoing, the NGB must report to UK Anti-Doping on an annual basis as to the NGB's compliance with this Policy, including identifying any and all instances of non-compliance and providing any explanation or justification offered for such non-compliance.

- 4.10.3 Instances of non-compliance with the Policy, as well as the consequences of such non-compliance, shall be resolved exclusively by following the procedure set out at **Appendix Two** to this Policy.
- 4.10.3 It is acknowledged that the NGB is a member of and subject to the jurisdiction of the international federation for its sport, and that in such capacity NGB is required to comply with the anti-doping obligations imposed upon it by that international federation (the "**IF Anti-Doping Obligations**"). To the extent that the NGB can demonstrate both (a) that its IF Anti-Doping Obligations conflict with the requirements of this Policy, and (b) that such IF Anti-Doping Obligations are compliant with the Code (as determined by WADA), then to that extent (and only to that extent) the NGB's non-compliance with the requirements of this Policy shall not be treated as a case of non-compliance for purposes of **Appendix Two**; provided that the NGB shall seek in good faith to facilitate a dialogue between UK Anti-Doping and the international federation in question to explore ways of resolving the conflict between the IF Anti-Doping Obligations and the requirements of this Policy.
- 4.10.4 No waiver of any requirement of this Policy shall be effective unless made in a document signed by a duly authorised representative of UK Anti-Doping. Any such waiver shall be effective only as against the NGB(s) named in the document, and only as to the specific requirement(s) identified in the document.

Appendix One: Quality Assurance

1. Warranties

[to be inserted]

2. Sample Collection

[to be inserted]

3. Sample Analysis

[to be inserted]

4. TUEs

[to be inserted]

5. Whereabouts

[to be inserted]

Appendix Two

NGB⁹ Compliance with the UK National Anti-Doping Policy

Monitoring Compliance

- A2.1 Where UK Anti-Doping considers that an NGB has failed to comply with the requirements of the UK National Anti-Doping Policy, UK Anti-Doping shall send a written notice to the NGB, identifying the alleged failure(s) and requiring an explanation and/or (where the failure(s) can be remedied) a proposal for remedy of the failure(s). In the notice, UK Anti-Doping should also advise the NGB of the consequences (if any) that UK Anti-Doping considers to be warranted by the alleged failure(s).
- A2.2 The NGB shall have ten (10) working days from receipt of the notice to respond, failing which it shall be deemed to have admitted the failure(s) alleged and to have accepted the consequences proposed, and such admission and acceptance shall be final and binding upon it. In any response, the NGB must:
- A2.2.1 deny or seek to justify or excuse the alleged failure(s), and set out with specificity the basis of such denial, justification or excuse; or
 - A2.2.2 admit the alleged failure(s) and (where the failure(s) can be remedied) make a proposal for remedy of the failure(s) within a specified time-period, for UK Anti-Doping's consideration. (If UK Anti-Doping accepts that proposal, then provided the NGB implements that proposal to UK Anti-Doping's satisfaction no further action shall be taken in respect of that/those failure(s)); and/or
 - A2.2.3 accept or dispute the appropriateness of the consequences (if any) proposed by UK Anti-Doping.
- A2.3 UK Anti-Doping shall advise the NGB in writing to what extent (if any) the NGB's denial of or explanation or justification for non-compliance is accepted, giving the reasons for that view (the "**Compliance Issue**"). To the extent the denial or explanation or justification offered by the NGB is not accepted, UK Anti-Doping shall also advise the NGB in writing of the consequences (if any) that UK Anti-Doping considers to be warranted, giving the reasons for that view (the "**Consequences Issue**").
- A2.4 The NGB shall have five (5) working days from receipt of the notice to dispute UK Anti-Doping's position on the Compliance Issue and/or the Consequences Issue. If the NGB does not dispute the Compliance Issue by that deadline, it shall be deemed to have admitted the non-compliance alleged by UK Anti-Doping, which admission shall

⁹ For purposes of this Appendix, references to 'NGB' shall encompass any related party that receives public funding and/or publicly-funded benefits or services either directly or via the NGB.

be final and binding upon it. If the NGB does not dispute the Consequences Issue by that deadline, it shall be deemed to have accepted the consequences proposed by UK Anti-Doping, which acceptance shall be final and binding upon it.

Referral to Arbitration

- A2.5 Where the NGB disputes the Compliance Issue and/or the Consequences Issue, UK Anti-Doping shall have the right to refer that dispute to arbitration by sending a written notice of such referral to the NGB and Sport Resolutions (UK). In that event, the dispute shall be resolved by a sole, independent and impartial arbitrator appointed by Sports Resolutions (UK) and acting in accordance with its Rules of Arbitration (Full Arbitration Procedure). The parties to the arbitration shall be UK Anti-Doping (claimant) and the NGB (respondent).
- A2.6 The seat of the arbitration shall be London and any hearings shall be held in London. The arbitrator shall fix the procedure to be followed in accordance with Sport Resolution (UK)'s Rules of Arbitration (Full Arbitration Procedure), provided that each party (i.e., both UK Anti-Doping and the NGB) is given a full and fair opportunity to make its case and to respond to the case made against it.
- A2.7 The arbitrator shall resolve the issue(s) referred to arbitration by reference to the following factors:
- A2.7.1 Where the Compliance Issue is referred to arbitration, the issue for the arbitrator shall be to determine the nature and extent of the NGB's failure(s) to comply with this Policy (if any); provided, however, that where the issue referred requires a determination of whether or not the NGB has adopted Code-compliant rules, and/or of whether or not the IF Anti-Doping Obligations are Code-compliant, then in accordance with paragraph [4.2.1] or paragraph [4.10.4] of the Policy (as applicable), that issue shall be referred to WADA for determination, and shall only be determined by the arbitrator if WADA declines or fails to determine it.
- A2.7.2 Where non-compliance is admitted by the NGB or determined by arbitration in accordance with paragraph [A2.7.1], and the Consequences Issue has been referred to arbitration, the issue for the arbitrator shall be what consequences (if any) are proportionate to the non-compliance in issue, having regard to the objectives of this Policy and the nature and scope of the non-compliance in question (as well as the NGB's previous record as to compliance with the Policy); provided that if the Secretary of State for Culture, Media & Sport has issued any guidelines as to the exercise of discretion in relation to the consequences to be applied for non-compliance with the Policy ("**Guidelines**"), then the arbitrator shall also follow those Guidelines in resolving the Consequences Issue.
- A2.8 Subject to any Guidelines, the consequences that the arbitrator may apply for failure to comply with the Policy include any (or any combination) of the following:
- A2.8.1 a warning;
- A2.8.2 a reprimand;

- A2.8.3 withdrawal of some or all publicly-funded services or benefits currently provided by or via UK Anti-Doping and/or any Sports Council or other source;
- A2.8.4 withdrawal of eligibility to receive publicly-funded services or benefits from or via UK Anti-Doping and/or any Sports Council or other source in the future, with conditions provided for the reinstatement of such eligibility;
- A2.8.5 withdrawal (or withholding for a stated period, on terms to be determined) of some or all public funding awarded but not yet paid to the NGB;
- A2.8.6 requiring repayment of funding paid to the NGB during the period(s) of non-compliance;
- A2.8.7 withdrawal of eligibility to receive public funding from any Sports Council or other source in the future, with conditions provided for the reinstatement of such eligibility;
- A2.8.8 withdrawal or suspension of recognition of the NGB as the governing body; and/or
- A2.8.9 such other consequences as are considered appropriate in all of the circumstances of the case;

provided that where appropriate some or all of the consequences may be applied on a suspended basis (i.e., to come into effect only if the NGB fails to comply with the Policy again within a specified period).

- A2.9 The arbitrator shall also have the power to order either party to pay some or all of the costs incurred by the other party in connection with the arbitration.
- A2.10 Other than as set out in sections 67 and 68 of the Arbitration Act 1996, the arbitrator's award on the issue(s) referred in accordance with paragraph [A2.5] and as to costs (the "Award") shall be final and binding on the parties as from the date it is made, and the parties shall be deemed to have waived irrevocably any right to appeal or review or recourse to a court of law in respect of such Award.
- A.2.11 The Award shall also be final and binding on any Sports Council and/or other body whose funding (and/or publicly-funded benefits or services) is/are implicated by the Award. Each of them shall take all necessary steps within their respective powers to give effect to the Award.]



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