

## NATIONAL ANTI-DOPING FRAMEWORK

### Context

Sport plays an important role in Australian society. Sport can improve the lives of individuals and assist in building communities. The involvement of Australians in sport is critically linked to the values sport promotes and the health and lifestyle benefits sport delivers to the wider community. Collectively, we expect the outcome of a sporting contest to be based on natural ability, determination and fair play.

Doping undermines the intrinsic value of sport. Rigorous and targeted anti-doping arrangements assist to:

- educate people about the dangers of doping to both their health and sporting careers
- provide people with information about their rights and responsibilities with respect to anti-doping
- deter people involved in sport from using performance enhancing substances and methods, and
- identify and sanction those who cheat through doping, whether inadvertent or not.

Governments play a vital role in promoting a doping free culture. Through the adoption of legislation, regulation, policies and programmes, governments create an environment in which doping is unacceptable in any form.

The National Anti-Doping Framework (Framework) aims to align domestic anti-doping efforts in Australia through a set of agreed principles, alongside clearly identified areas for cooperation between the Australian and State and Territory governments.

Governments, however, cannot act alone. Success in fostering a culture hostile to doping requires close cooperation with the sports sector.

National Sporting Organisations (NSOs) require their members to abide by World Anti-Doping Code-compliant anti-doping policies; drive the implementation of effective anti-doping programmes; educate athletes and athlete support personnel about the dangers and consequences of doping; collect important information on doping risks and trends; and impose sanctions for breaches of anti-doping rules.

Through this coordinated effort, Australia can continue to contribute to the international endeavours against doping in sport to achieve a level playing field where all athletes are subject to the same doping rules and sanctions as their peers.

While the Framework is aimed at achieving a coordinated and consistent approach to anti-doping across all governments in Australia, it is not binding. Operational arrangements are not included in the Framework as they are a matter for individual jurisdictions.

Supporting information in this document, including the roles and responsibilities of the Commonwealth and State and Territory Governments, and NSOs (Appendix A) is provided as additional context for the Framework.

## International context

Australia's anti-doping programme operates in an international context. It is a complex and dynamic environment that requires a proactive and strategic approach to building and maintaining global partnerships. The global harmonisation of anti-doping policies and practices is led by the World Anti-Doping Agency (WADA). There are three elements which together ensure optimal harmonisation and best practice in international and national anti-doping programmes:

- the World Anti-Doping Code (Code), which is the core document that provides the framework for harmonised anti-doping policies, rules and regulations within sport organisations and among public authorities
- International Standards which foster consistency among anti-doping organisations in various technical areas such as:
  - collection of samples for testing
  - sample analysis by accredited or approved laboratories
  - intelligence gathering and the conduct of investigations into possible anti-doping rule violations
  - specifying substances and methods prohibited from sport
  - issuing therapeutic use exemptions for athletes to obtain legitimate medical treatment involving substances that are prohibited from sport, and
  - protection of privacy and personal information.
- Model Rules, which have been developed to assist National Olympic Committees, International Federations, major event organisations and National Anti-Doping Organisations to draft anti-doping rules in line with the Code.

International Federations, International and National Olympic and Paralympic Committees, major event organisations and some National Anti-Doping Organisations (NADOs) are direct signatories to the Code. As the Code is a non-government document, governments cannot be signatories. Rather, governments accept the Code by ratifying the UNESCO International Convention Against Doping in Sport (Convention). The Convention harmonises national anti-doping laws for global coordination and requires States Parties to implement arrangements that are consistent with the principles of the Code.

The Australian Government ratified the Convention on 17 January 2006 and it entered into force on 1 February 2007. All States and Territories were consulted during the ratification process through the Joint Standing Committee on Treaties.

Australia's anti-doping legislation gives effect to its international obligations under the Convention. The purpose of the Australian Sports Anti-Doping Authority (ASADA) is to protect the health of Australian athletes and the integrity of Australian sport. ASADA's powers and functions are specified under the *Australian Sports Anti-Doping Authority Act 2006* (ASADA Act) and the Australian Sports Anti-Doping Authority Regulations 2006 (ASADA Regulations). The National Anti-Doping Scheme is specified at Schedule 1 to the ASADA Regulations.

## **Objectives**

The Framework seeks to provide a nationally-coordinated approach to the implementation of the Code and supporting obligations under the Convention.

## **Principles**

The Framework operates on the basis of the Australian and State and Territory governments working together by:

- recognising the primacy of ASADA in delivering Code-compliant anti-doping programmes and activities in Australia
- reporting instances of possible anti-doping rule violations to ASADA, where appropriate and feasible
- sharing information regarding the development of anti-doping related initiatives
- supporting investigations by ASADA into possible anti-doping rule violations including, where appropriate and feasible, the provision of intelligence and establishing partnerships between ASADA and relevant state government agencies.
- expecting athletes, athlete support persons and other people participating in state level sporting events or training at state based academies and institutes are subject to a Code-compliant anti-doping policy
- respecting the rights of athletes and ensuring procedural fairness, and
- recognising and enforcing penalties against those who committed an anti-doping rule violation; and implementing a consistent response to sports which do not operate Code-compliant anti-doping policies.

## **Review and monitoring**

The Framework is reviewed in line with any changes to the Code, International Standards and Model Rules, as well as changes to relevant legislation, policies and procedures. To support the maintenance of the Framework, monitoring will take place through regular reporting to the Committee of Australian Sport and Recreation Officials (CASRO).

## **Areas for cooperation between the Australian and State and Territory Governments**

The Framework provides a mechanism to ensure the activities of the Australian, state and territory governments in the anti-doping context are not undertaken in isolation.

### Education

A key element in the anti-doping effort is targeted education programmes that foster anti-doping behaviours and create a strong anti-doping culture. The sporting community needs to be aware of the potential adverse health effects of doping; the impact of doping on the reputation of an individual and their sport; the penalties for engaging in doping activities; and links to other sports integrity issues.

Through ASADA, the Australian Government works with NSOs to ensure all members of the Australian sporting community are provided with the opportunity to access a range of anti-doping education tools that:

- provide every chance to develop the essential knowledge, understanding, skills and values to allow them to be active, effective and responsible in playing their role in protecting Australia's sporting integrity
- encourage a positive contribution to the anti-doping cause both now and into the future
- encourage and enable the identification of individual attitudes toward anti-doping in sport and to realise individual potential
- encourage and enable a contribution to a fair and level playing field that values diversity, and
- promote continuity and coherence of learning across the Australian sporting community.

Under the Framework, ASADA and State and Territory agencies can work cooperatively to achieve agreed anti-doping outcomes through education.

#### Testing of athletes

Under its enabling legislation ASADA may collect samples in Australia from athletes who compete in a sport with an anti-doping policy. ASADA may also be contracted by third parties (including state and territory governments) to undertake testing on their behalf. Where a state or territory government agency becomes aware of a possible anti-doping rule violation, it should be promptly reported to ASADA, where appropriate and feasible.

#### Intelligence Gathering and Investigations

Revisions to the Code that took effect on 1 January 2015 have given greater prominence to the role of intelligence-gathering and investigations in the anti-doping effort. This increased focus acknowledges that some anti-doping rule violations cannot be identified through testing, with many high-profile cases being based largely on evidence obtained through an investigations process.

Under the Code, athletes and support personnel may be sanctioned for an anti-doping rule violation identified through analytical means (adverse analytical findings for the presence of a prohibited substance, or metabolites, or markers) and non-analytical means (the collection of information and evidence that demonstrates possession, use, trafficking, evading, refusing, tampering, administration and complicity). Through the collection, evaluation, collation, analysis, dissemination and re-evaluation of information obtained through various means, ASADA produces intelligence to target the sports and athletes at highest risk of doping.

A key aspect of the intelligence-gathering and investigations process is the development of cooperative working partnerships between stakeholders including: Commonwealth, State and Territory Government agencies; the Australian Federal Police; State and Territory law enforcement agencies; other NADOs; and NSOs. These partnerships are managed through a range of mechanisms (such as Memoranda of Understanding) and can involve lawful sharing of information with a number of bodies or persons, as permitted under the ASADA Act.

The anti-doping effort can be advanced by improving information flows through the development of these partnerships.

The National Anti-Doping scheme also provides the ASADA Chief Executive Officer with the authority to issue a disclosure notice requiring a person (whether an athlete, support person or third party) to assist with an ASADA investigation. The disclosure notice may require the person to attend interviews with ASADA investigators; provide information; and/or provide documents or things.

### Sanctions

The Code provides a consistent approach to the application of penalties for athletes and support persons who are found to have committed an anti-doping rule violation by specifying penalties for each violation. Penalties (sanctions) for these violations are not criminal but involve bans from sport for a certain period, disqualification of results and the forfeiture of any medals, points and/or prizes.

Sanctions on the individual are imposed by the NSO following a hearing by the relevant sports tribunal. An athlete is able to waive this right to a hearing and accept the sanction.

Cooperation between Australian, State and Territory governments facilitates a fair approach to the broader enforcement of penalties provided by the sanction. The specific circumstances in which funding and access to facilities may be withdrawn will be determined by the relevant jurisdiction. Governments may also co-operate by collectively withdrawing funds from those sports that are assessed by ASADA as not enforcing Code-compliant anti-doping policies.

### Other Issues

#### *National Drug Strategy (NDS)*

The issue of drug use in the community, including in sport, is a national issue that requires a concerted effort by all governments and the community.

The NDS, a cooperative venture between Australian and State and Territory governments and the non-government sector since 1985, provides a coordinated, integrated approach to addressing this issue and guides governments and non-government organisations in the development and delivery of drug strategies, programs and initiatives for the prevention and reduction of harmful drug use.

The current NDS (2010-2015) is due for revision by the end of 2015, and development of the next NDS (2016-21) is underway. A national stakeholder consultation process has been undertaken and is being used to inform the development of the NDS. Further stakeholder consultation will be undertaken later in 2015, before the NDS is finalised. Once finalised, the NDS will provide a framework to guide actions by governments, communities and service providers to minimise drug and alcohol related harms over the next five years.

Building on the collaborative approach identified by the NDS, Australian and State and Territory government agencies with responsibility for sport will seek to work together and with sports to emphasise the anti-doping message. Such an approach allows flexibility for individual jurisdictions to pursue specific priorities regarding anti-doping messages.

### *Performance and Image Enhancing Drugs (PIEDs)*

PIEDs are substances taken by people with the intention of improving body appearance and/or enhancing sporting performance. PIEDs include a range of anabolic agents, peptides and hormones some of which have not been approved for human use.

In February 2013, the Australian Crime Commission released a report linking organised crime to the supply of PIEDs to athletes. The risk of organised criminal identities and groups taking advantage of the current legislative and regulatory situation whereby persons and entities who supply certain substances on the List of Prohibited Substances and Methods to athletes do not necessarily commit a crime in Australian jurisdictions is well established.

This has been addressed to some degree by the listing of substances identified in the Australian Crime Commission report on the Standard for the Uniform Scheduling of Medicines and Poisons. However, when PIEDs are used outside of medical guidelines or supervision, there is an inherent danger to an individual's health and wellbeing. The supply of PIEDs also undermines the integrity of Australian sport, because:

- the use of PIEDs at community and sub-elite level embeds behaviour that may be carried into elite levels
- it undermines public confidence in sport and diminishes participation; this reduces the capacity of sport to contribute to community building, and
- athletes at various levels are exposed to unlawful practices and criminal elements, with consequent potential for broader integrity compromise – including use of illicit drugs, insider information and match-fixing behaviours.

While the regulation of PIEDs supply already exists to a certain degree through the operation of the *Therapeutic Goods Administration Act 1989* and the Standard for the Uniform Scheduling of Medicines and Poisons, the Australian and State and Territory governments may consider working together to strengthen this regime by identifying and addressing gaps in legislation around penalties for, and enforcement of, the illegal manufacture, supply and distribution of PIEDs.

### *Supplements*

Australia has an obligation under the Convention to encourage producers and distributors of 'nutritional supplements' to establish best practices in the marketing and distribution of these supplements, including information regarding their analytical composition and quality assurance.

The marketplace supplies thousands of products claiming to provide nutritional support for athletes. Some of these consist of high-protein substances, such as amino acid supplements, while other products contain nutrients that support metabolism, energy, and athletic performance and recovery. Supplements can be found in pill, tablet, capsule, powder or liquid form.

There is an increasing prevalence of athletes committing an anti-doping rule violation due to taking a supplement. This is because substances prohibited from sport may be added deliberately during the supplement manufacturing process, or included inadvertently through contamination. As such, athletes cannot be certain a specific supplement, or batch of a supplement, does not contain prohibited substances.

There are also health concerns, due to the unknown effect of ingredients acting on their own or in a combination with other substances or medications being ingested, and the inclusion of ingredients not identified on the label.

This issue is not restricted to the elite athlete. There is evidence that points to the broader use of supplements at the sub-elite and community levels of sport.

While formulated sports foods and dietary supplements are regulated and the Australian Institute of Sport has published guidelines on the use of supplements by athletes, it may be appropriate for the Australian, State and Territory governments to work together to identify new strategies for mitigating the risk of inadvertent doping through supplements use.

## Roles and Responsibilities

### Australian Sports Anti-Doping Authority (ASADA)

ASADA is Australia's national anti-doping agency. Its purpose is to protect the health of Australian athletes and the integrity of Australian sport.

ASADA provides a comprehensive anti-doping programme for the Australian sports community, encompassing engagement, deterrence, detection and enforcement activities. ASADA does this by working closely with sports, athletes, support personnel, government agencies and law enforcement bodies in:

- designing and delivering education and communication programmes
- detecting and managing anti-doping rule violations, from athlete testing to managing and presenting cases at hearings
- collecting and analysing anti-doping intelligence, and conducting investigations into possible anti-doping rule violations
- monitoring and reporting on sports' compliance with anti-doping policies, and
- supporting athletes to meet their anti-doping obligations.

ASADA also collaborates with the World Anti-Doping Agency (WADA), overseas anti-doping organisations and other stakeholders to further the Australian Government's efforts to harmonise anti-doping practices globally.

The role and functions of ASADA are set out in the *Australian Sports Anti-Doping Authority Act 2006* (ASADA Act), the *Australian Sports Anti-Doping Authority Regulations 2006* (ASADA Regulations) and the *National Anti-Doping Scheme* (NAD Scheme). ASADA is a Non-corporate Commonwealth Entity under the *Public Governance, Performance and Accountability Act 2013*.

ASADA's enabling legislation also provides for the establishment of the following:

#### 1. Anti-Doping Rule Violation Panel (ADRVP)

The role of the ADRVP is to assess information regarding possible anti-doping violations presented to them by the athlete, ASADA and any other relevant party.

After due consideration the ADRVP decides on whether it is satisfied a possible anti-doping rule violation has been committed, and whether to make an assertion that there has been a possible anti-doping rule violation by the athlete.

If the ADRVP makes an assertion that a possible anti-doping rule violation has been committed, the athlete is given the opportunity to have a hearing before a sports tribunal.

#### 2. Australian Sports Drug Medical Advisory Committee (ASDMAC)

As required under the World Anti-Doping Code (Code), ASDMAC considers, and where appropriate approves, applications by athletes for the legitimate therapeutic use of a prohibited substance.

ASDMAC also provides a domestic review mechanism for athletes to appeal an ASDMAC decision to reject a Therapeutic Use Exemption application.



### **Australian Sports Commission (ASC)**

The ASC's roles and responsibilities in relation to anti-doping are to:

- require National Sporting Organisations (NSOs) to, as a condition of ASC recognition and funding, have an anti-doping policy conforming with the Code and approved by ASADA and to acknowledge ASADA's powers and functions under the ASADA Act and NAD Scheme;
- determine whether to withhold recognition or funding from NSOs not in compliance with such obligations following consultation with ASADA regarding the non-compliance;
- require recipients of ASC athlete support grants to, as a condition of the grant, comply with the anti-doping policies of the ASC and the recipient's NSO, with the ASC having the right to require repayment of grant funds in the event of breaching such conditions; and
- assist, cooperate and liaise with ASADA and other anti-doping organisations in relation to the conduct of any investigation and/or hearing into a potential violation.

Decisions on whether NSOs are eligible to access State- and Territory-owned facilities are a matter for the relevant jurisdiction.

### **National Integrity of Sport Unit (NISU)**

The NISU, within the Commonwealth Department of Health, has primary responsibility for the Australian Government's obligations under the UNESCO International Convention Against Doping in Sport (Convention) and works in partnership with other government bodies, including State and Territory Governments, to meet these obligations.

The NISU is also responsible for oversight of the ASADA Act, ASADA Regulations and NAD Scheme and for providing policy advice on sport integrity issues and initiatives that complement the activities of other relevant agencies and authorities, including ASADA and the ASC.

The NISU administers limited funding for scientific research to identify new, and improve existing, detection capabilities and technologies.

### **National Sporting Organisations**

All ASC-recognised NSOs are required to have an anti-doping policy that complies with the World Anti-Doping Code, and acknowledges ASADA's powers and functions under the ASADA Act, ASADA Regulations and NAD Scheme. NSOs, and by extension their affiliated State Sporting Organisations (SSOs)/regional sport organisations, are also obligated to implement anti-doping measures to the extent required by their respective International Federation.

The anti-doping roles and responsibilities of NSOs are listed in the Sporting Administration Body rules of the ASADA Regulations. NSOs are required to acknowledge ASADA's functions and powers under the ASADA Act and the NAD Scheme and facilitate the execution of those functions and powers as reasonably required by ASADA.

### **Other Australian Government agencies**

There are a number of other Australian Government agencies that have a role to play in anti-doping matters, including the sharing of information that may assist ASADA in its investigations of doping allegations in Australian sport. These agencies include:

- Australian Federal Police
- Department of Immigration and Border Protection, and
- Therapeutic Goods Administration.

The Australian Sports Drug Testing Laboratory (ASDTL), within the National Measurement Institute, is Australia's only WADA-accredited laboratory. The ASDTL analyses samples collected from athletes on behalf of ASADA and undertakes anti-doping research.

### **Professional associations**

Relevant professional associations (eg: medical associations) have a role in developing and implementing codes of conduct, good practices and ethics relating to sport practices which are consistent with the principles of the Code.

The Code includes provisions encouraging governments and the sporting community to work with relevant professional associations to develop such policies.

Professional associations should also make their members aware of the prohibited association anti-doping rule violation which took effect on 1 January 2015. Under this provision, an athlete or an athlete support person commits a violation if they continue to associate in a professional or sport related capacity with a 'disqualified support person' after receiving a warning from the anti-doping authorities.

The criteria for being classified as a disqualified support person are defined in the Code.

### **State Sporting Organisations (SSOs)**

SSOs are obliged to implement anti-doping measures to the extent required by their respective International Federations and NSOs. SSOs also have a role in supporting the delivery of education to athletes, particularly junior athletes as to the dangers of doping and the athletes' obligations.

### **State and Territory Governments**

State and Territory governments contribute to Australia's international obligations under the Convention and the Code through:

- supporting the objectives of the Framework
- expecting SSOs to demonstrate compliance with the sports' anti-doping policy (as approved by ASADA) as a condition of receiving State/Territory funding<sup>1</sup>
- expecting athletes and their support staff at state institutes and academies of sport within their jurisdiction to be subject to a Code-compliant anti-doping policy
- supporting anti-doping education, particularly at the sub-elite and community level, including the delivery of education by ASADA

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<sup>1</sup> Decisions on whether SSOs are eligible to receive funding and the circumstances in which funding may be withdrawn are matters for the relevant jurisdiction.

- supporting the enforcement of sanctions resulting from an anti-doping rule violation, including the appropriate withdrawal of funding for an athlete and/or athlete support person and access to state/territory government facilities (including state institutes of sport/state academies of sport) as provided for by the sanction
- supporting cooperation between ASADA and relevant Australian/State Government law enforcement agencies in the investigation of potential violations, for example, where appropriate and feasible, the development of information sharing arrangements between ASADA and state/territory agencies
- encouraging and assisting SSOs to support NSOs to fulfil their anti-doping roles and responsibilities
- encouraging state-based organisations who deal directly with athletes or athlete support persons to support compliance with the anti-doping policies of their governing sporting organisation, and
- advising ASADA of any possible anti-doping rule violations.

State and territory governments may also enter into agreements with ASADA to test athletes outside the national testing pool where provided for by that jurisdiction's legislative and resourcing requirements.

## **Relevant Anti-Doping websites**

### **International websites**

United Nations Educational, Scientific and Cultural Organisation:

[www.unesco.org/new/en/social-and-human-sciences/themes/sport/anti-doping/](http://www.unesco.org/new/en/social-and-human-sciences/themes/sport/anti-doping/)

World Anti-Doping Agency:

[www.wada-ama.org/en/](http://www.wada-ama.org/en/)

### **Australian Government websites**

Australian Sports Anti-Doping Authority:

[www.asada.gov.au](http://www.asada.gov.au)

*Australian Sports Anti-Doping Authority Act 2006:*

[www.comlaw.gov.au/Series/C2006A00006](http://www.comlaw.gov.au/Series/C2006A00006)

Australian Sports Anti-Doping Authority Regulations 2006

[www.comlaw.gov.au/Series/F2006L00765](http://www.comlaw.gov.au/Series/F2006L00765)

Australian Sports Commission:

[www.ausport.gov.au](http://www.ausport.gov.au)

Australian Sports Drug Medical Advisory Committee:

[www.asdmac.gov.au/](http://www.asdmac.gov.au/)

National Integrity of Sport Unit

[www.health.gov.au/internet/main/publishing.nsf/Content/national-integrity-of-sport-unit](http://www.health.gov.au/internet/main/publishing.nsf/Content/national-integrity-of-sport-unit)

### **State and Territory Government websites**

Sport and Recreation Victoria

[www.sport.vic.gov.au](http://www.sport.vic.gov.au)

CleanEdge

[www.cleandedge.com.au](http://www.cleandedge.com.au)

Victorian Sports Anti-Doping Policy

<http://sport.vic.gov.au/publications-projects-and-research/victorian-anti-doping-initiatives>