ADDITIONAL ESTIMATES HEARING– 10 FEBRUARY 2016

Brief Number 1

Brief Title: FINANCIAL AND OTHER SUPPORT TO WADA BY ASADA

KEY POINTS

- I am on record as stating that ASADA fully supported WADA's Appeal to the Court of Arbitration for Sport. ASADA also joined the appeal in the Court of Arbitration for Sport as an interested party.

- WADA requested that I make available two members of the Authority's staff to assist with its appeal in addition to making a financial contribution.

- ASADA paid half of the legal costs of the appeal, capped at USD $100,000 ($130,000AUD), and a further 6,800CHF ($10,000AUD) as a contribution to WADA's arbitration fee. This totals $140,000.

[if asked]

- ASADA also paid approximately $4,000 AUD in ancillary costs to transport samples to the WADA accredited laboratory in Cologne, Germany.

- In 2014-15, we spent $14,000 sending two staff to Colorado Springs for a number of weeks to hand over the matter to WADA's lawyers.

BACKGROUND

- The arbitration fee contribution above does not reflect the amount of money that ASADA has paid in its own right as an interested party CAS arbitration fees (AUD $34,000 at prevailing exchange rates).

- The ancillary costs relate to transport costs for stored samples which were sent by ASADA to the Cologne Laboratory. This was in response to requests from WADA to provide the relevant samples for analysis.

- Other expenses (for example, the sharing of expert witness costs) are yet to be determined and ASADA has not provided specific assistance to date in this regard.

Author: s22 [redacted]

Executive Clearance: s22 [redacted]

[redacted]

Date Cleared: 29 January 2016

ADDITIONAL ESTIMATES HEARING – 10 FEBRUARY 2016

Brief Number 2

Brief Title: Cost of Cobia Investigation

KEY POINTS

- The total cost of the Cobia investigation to 31 December 2015 is $5.947m (exclusive of GST).

- External legal costs associated with the Cobia investigation to 31 December 2015 were $4.329m (exclusive of GST) (refer attached table).

- Costs arising from the Federal Court cases and appeals brought by Mr Hird and the Essendon Football Club totaled $1.816m.

- Following recovery of costs from Essendon and Mr Hird totaling approximately $1.26m, the net cost of those proceedings to the Commonwealth was approximately $556,000.

- Costs associated with the support for the WADA appeal to the Court of Arbitration for Sport (CAS) to 31 January 2016 comprised:

  - $130,000—ASADA's capped $100,000 USD commitment (at prevailing exchange rates).
  - $10,000—ASADA's component of WADA's CAS arbitration fee (at prevailing exchange rates)

- In addition, ASADA had at 31 January 2016 incurred the following costs arising from its own participation in the appeal:
  - $34,000— CAS arbitration fee attributable to ASADA (at prevailing exchange rates)
  - $14,000 – payment to counsel (Patrick Knowles) representing ASADA at the CAS hearing
  - $4,000—Costs related to transportation of samples to Cologne laboratory
  - $14,000— for international travel (incurred in 2014-15).

[if asked – "was it worth it?"]

- Sport is a billion dollar enterprise – recent ABS data estimates that the total income generated by the sport and recreation industry in Australia is $8.82 billion.

- In comparison, ASADA's annual budget to minimise doping across all sports in Australia is around $13 million.

- Australians are notoriously proud of their reputation as a nation that is good at sport, and Australians expect high standards of behaviour from our athletes.

- In light of this, pursuing cheaters who benefit financially and personally from doping is a worthy cause.

- Had ASADA not pursued the Operation Cobia cases, it may have compromised our obligations under the WADA code, leading to larger ramifications for Australian sport.

BACKGROUND

- For 2014–15 ASADA has reported $3.157m (ex-GST) in external legal expenditure in our annual report to the Attorney-General's Department.

- The variance arises as the legal expenditure report is cash based (i.e. it is a report of what we have actually spent in the 2014–15 financial year).

- The financial statements, on the other hand, are prepared on an accrual basis. $1.14m of what we spent in 2014-15 on the Hird and Essendon Federal Court litigation was accrued into the 2013–14 financial statements. Therefore, this amount is not included in the 2014–15 financial statements.

Author: s22 [redacted]

Executive Clearance: s22 [redacted]

Date Cleared: 8 February 2016

The following table outlines Cobia external legal costs by matter:

COBIA External Legal Costs as at 31 December 2015	2012-13 000's	2013-14 000's	2014-15 000's	2015-16 000's	Total 000's
Pre- Federal Court	85	497	0	0	**582**
Federal Court/Federal Court Appeal	0	1,322	489	4	**1,816**
Show Cause Notices	0	14	65	3	**82**
AFL Tribunal	0	0	948	1	**949**
Supreme Court Victoria	0	0	397	0	**397**
AAT Matters	0	52	74	0	**126**
Other Related Matters	0	9	132	32	**173**
WADA Appeal	0	0	159	15	**174**
AFL Appeal Board	0	0	0	31	**31**
Total	**85**	**1,894**	**2,264**	**86**	**4,329**

N.B Figures are GST Exclusive

ADDITIONAL ESTIMATES HEARING— 10 FEBRUARY 2016

Brief Number 5

Brief Title: RELEVANCE OF WADA CODE FOR AUSTRALIAN SPORTS

KEY POINTS

- We've heard a lot of commentary about the relevance of the World Anti-Doping Code to team sports.
- The idea that the Code is only suitable for individual sports is misguided.
- The Code applies to many team sports around the world, including Olympic, professional and amateur sports.
- Currently, more than 80 Australian sports comply with the World Anti-Doping Code. Two thirds have a team component, and of these, 18 are solely team pursuits.
- Adherence to the World Anti-Doping Code is the best possible way to ensure a level playing field for athletes in any sport.
- The UNESCO Convention on the Elimination of Doping in Sport, which requires countries to implement the principles of the Code has been ratified by 181 countries.

- What are the alternatives? A drugs policy negotiated, policed and enforced between players and the sport would be akin to the 'fox guarding the henhouse' and is completely out of line with worldwide developments and expectations in the development of integrity in sport.

- Let's look at the National Football League Policy
  - The National Football League (NFL) in America has a drugs policy negotiated between the sport and the NFL players association.
  - Under the NFL drugs policy, the NFL could not test for Human Growth Hormone prior to the end of 2014 because the NFL players did not agree to hGH testing in their Drugs Policy.
  - The NFL drugs policy does not allow for blood samples to be collected on game days. Generally, players cannot be blood tested more than 6 times per calendar year.
  - An NFL player receives a 2 game sanction for a positive test for a diuretic or masking agent, a 4 game sanction for a stimulant or anabolic agent and a 6 game sanction for a test for a prohibited substance and a masking agent or diuretic.
  - For a second offence an NFL player receives a 10 game sanction. For a third offence an NFL player receives a sanction of at least 2 seasons.

BACKGROUND

- On 12 January 2016, the AFL Players Association Chief Executive Officer, Paul Marsh was quoted in an article published in 'The Age' newspaper. (A copy of the article is at Attachment A)

- The article claims that Mr Marsh was disgusted and shocked by the Court of Arbitration for Sport decision in relation to 34 past and present Essendon players.

- The article claims that Mr Marsh believes that:
  - the AFL must seriously consider separating itself from the WADA Code;
  - the hefty bans given to players would hasten a push to create a new fit for purpose Code;
  - the WADA Code is not catching genuine cheats; and
  - the best Codes around the world were those collectively bargained between the athletes and the sports (like the American sports which have their houses in order).

- The new 2015 World Anti-Doping Code strengthens sanctions against athletes who cheat by using substances such as hGH and steroids. Those athletes are now subject to a 4 year ban. The sport movement and governments of the world adopted the Johannesburg Declaration on 15 November 2013 whereby they renewed their joint commitment to a rigorous fight against doping in sport. The AFLPA's suggestions are completely out of step with worldwide views and expectations of rules in relation to doping in sport.

- The 18 ASC recognised team sports are:
  - AFL
  - Badminton
  - Baseball
  - Basketball
  - Cricket
  - Dragon Boat
  - Soccer
  - Gaelic Football
  - Handball
  - Hockey
  - Ice Hockey
  - Lacrosse
  - Polocrosse
  - Netball
  - Rugby League
  - Rugby Union
  - Softball
  - Volleyball

Author: s22 [redacted]

Executive Clearance: s22 [redacted]

Date Cleared: 4 February 2016

ATTACHMENT A.

theage.com.au
THE AGE

Essendon CAS verdict: Players want new anti-doping code, says AFLPA boss Paul Marsh

Matt Murnane
Published: January 12, 2016 - 10:56PM

Disgusted and shocked by the decision against the "Essendon 34", players' association boss Paul Marsh says the AFL must now seriously consider separating itself from the World Anti-Doping Agency code.

An emotional Marsh described Tuesday's decision by the Court of Arbitration for Sport as "the most disgraceful thing I've seen" in 20 years working in sport, and signalled the hefty bans would hasten the push to create a new "fit-for-purpose" anti-doping code for the game.

Marsh was in the room on Tuesday when the AFL Players Association legal team told the players an entire season of their careers would be wiped out, and revealed there was silence and in some cases tears immediately after, as the gravity of the verdict sunk in.

Marsh was also fighting back tears as he fronted the media on the players' behalf – calling the latest and most dramatic twist in the supplements saga the "final nail in the coffin".

But he gathered himself and knew the significance of his words when he admitted he "did not have a great deal of faith in the WADA regime", and he had concerns about the "politics" around it.

"I'm sure I will be criticised for saying that, but I don't really care," Marsh said. "I think it's something we've got to take a really good, hard look at because there is just too much injustice.

"I don't think the WADA code is necessarily catching genuine cheats. I think it's catching people who are not cheats.

"As difficult as it would be to walk away from it, it's something we seriously want to look at."

Among the difficulties the AFL would face by becoming "WADA-free" is the risk of losing government funding, which clubs have benefited from in areas such as ground improvements and community and Indigenous programs.

Beyond that, such a move could create a perception that the league is not as committed to clean sport as others.

The AFL stressed on Tuesday it was as committed as any sport to stamping out drug cheating.

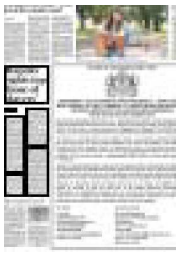
But chairman Mike Fitzpatrick also said the CAS decision "invites a discussion" about how the code applied to teams sports, and the league would "accept that invitation".

WADA director-general David Howman has repeatedly rejected the argument that the WADA code is better suited to navigating anti-doping issues for individual athletes than for team sports.

Asked what might act as an alternative anti-doping code in place of WADA's, Marsh was reluctant to go into detail. But, speaking generally, he said the AFLPA believed the best codes around the world were those "collectively bargained between the athletes and the sports".

"There are lots of examples of that," he said. "The American sports have stayed out of WADA and, in many respects, they have got their houses in order. So it is certainly something that can happen, finding a fit-for-purpose anti-doping code."

Marsh would not say how early the AFLPA would want a new drugs policy in place, but said a prompt review of the existing code was now a "huge priority".



22 Jan 2016
The Australian, Australia

Author: Chip Le Grand • Section: General News • Article type : News Item
Classification : National • Audience : 104,774 • Page: 5 • Printed Size: 236.00cm²
Market: National • Country: Australia • ASR: AUD 4,769 • Words: 503
Item ID: 529502187

'Rapists' rights top those of players'

EXCLUSIVE

CHIP LE GRAND

A Victorian senator is pushing for the release of secret documents containing sworn testimony of the sports scientist at the centre of the Essendon drugs scandal , saying rapists had more rights than AFL footballers.

He also wants the release of the conclusions of anti-doping investigators who didn't believe the players should be charged.

John Madigan has written to the Prime Minister's Office seeking access to material that could shed light on political machinations behind the drugs scandal and whether footballers banned for doping were treated fairly.

The cache of documents sought by Senator Madigan, who along with Greens senator Richard di Natale wants to establish a Senate inquiry into the Essendon drugs saga, includes the classified version of the Australian Crime Commission report that prompted the "blackest day in Australian sport" press conference on February 7, 2013.

The senator has also listed the Australian Sports Anti-Doping Authority's final report into its Essendon investigation and a review of ASADA's work by retired Federal Court judge Garry Downes among documents that should inform a Senate inquiry.

"I have taken this decisive step in light of media reports that the Turnbull government is giving consideration to demands from senators Jacqui Lambie and Glenn Lazarus for access to the secret volumes of the Heydon royal commission's report on trade union corruption," Senator Madigan said.

"Each of these documents has no doubt informed decisions made by key personnel, on commonwealth and AFL payrolls."

The ACC material includes information gained from two coercive interviews with sports scientist Stephen Dank in 2012, when he was employed at Essendon. The Downes report, commissioned by former sports minister Peter Dutton, was considered by ASADA before it initiated proceedings against 34 Essendon players.

ASADA's final report into Operation Cobia was completed by lead investigator Aaron Walker in March 2014 and made available to parties involved in the drugs case that culminated in last week's two-year bans imposed by the Court of Arbitration for Sport.

Senator Madigan, neither an AFL enthusiast nor an Essendon supporter, said he was concerned players had been treated unfairly by a drugs scandal fuelled by cynical politics. He said despite the published reasons of CAS, a Swiss-based tribunal that acts as the final arbiter in doping cases, it was unclear how guilt was assigned to each player. "Remove the sport from it. Is there natural justice? Is there fairness?" he said.

The CAS judgment is being examined for grounds of appeal by lawyers acting for the players.

All 34 players were last year cleared of doping by an AFL tribunal chaired by retired Victorian County Court judge David Jones. An appeal by the World Anti-Doping Agency against that decision resulted in a second full hearing of the case before CAS.

Senator Madigan said the AFL had "abrogated" to an international tribunal its own responsibilities. "How many times can a person be punished for a crime, and for how long? I wouldn't wish this on anybody," he said. "Rapists have more rights, it seems, than an AFL footballer."

Richard
Di Natale

Players scapegoated in WADA finding, inquiry needed

12 Jan 2016 | Richard Di Natale
Sport

Greens Leader Richard Di Natale, a former VFL footballer and doctor, says a broad-ranging inquiry is needed to evaluate Australia's anti-doping framework.

"The current system focuses almost exclusively on the players and ignores many of the individuals and organisations involved in this saga," Senator Di Natale said.

"This episode has revealed problems in Australia's anti-doping framework. It has failed players, for whom clubs have a duty of care. It has failed fans, who want to know they're seeing the best skills, not the best pharmacist. And it has failed all those who want to participate in what should be a really healthy, enjoyable, wholesome activity.

"There are no winners out of today's finding. While many of the perpetrators have moved on, 34 current and former Essendon players are now facing the consequences of a club-wide systematic practice, four years after it was uncovered.

"The response by Australian authorities has been too slow, wasted enormous resources and achieved very little.

"I'm calling on the Sports Minister to initiate a broad independent inquiry to review this case and examine issues such as ASADA's powers and funding and whether the WADA code, designed for Olympic sports, is appropriate for team sports such as the AFL.

"I know from my own experience that integrity in sport matters deeply to players, administrators and the fans whose teams are a central part of their identity.

"All those things sport teaches you, about teamwork, hard work and accepting the rules of the game are undermined when you have people doing the wrong thing and an ineffective system to stamp it out," Senator Di Natale said.

Also in this section

- Media releases

- Video
- Audio
- Photo galleries
- Transcripts
- News stories

While They're Fighting Each Other, We're Standing Up for What Matters

MPs

Leader
Richard Di Natale

Co-Deputy Leader
Scott Ludlam

Co-Deputy Leader
Larissa Waters

Member for Melbourne
Adam Bandt

Senators
Rachel Siewert
Sarah Hanson-Young
Lee Rhiannon
Peter Whish-Wilson
Janet Rice
Nick McKim
Robert Simms

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THE GREENS
The Australian Greens
Greens MPs

Authorised by Richard Di Natale, Parliament House, Canberra, ACT 2600

Digital Agency - Monkii | Responsive Theme by Jake Schoermer

ADDITIONAL ESTIMATES HEARING— 10 FEBRUARY 2016

Brief Number 6

Brief Title: ESSENDON PLAYERS' APPEAL

KEY POINTS

- I am aware of an appeal lodged with the Swiss Federal Court by the Essendon players

- I do not want to comment on the merits or otherwise of possible grounds of appeal for Essendon players. These are ultimately matters for the players and I do not want to prejudice ASADA's position.

- This appeal is in its very early stages, and ASADA will consider the extent of its involvement as it unfolds.
    - ASADA has received a *notice of appeal* but not the *grounds for appeal*.

BACKGROUND

- On 12 January 2016, the Court of Arbitration for Sport handed down an Award in relation to a matter involving 34 past and present Essendon players.

- The players were found to have committed the anti-doping rule violation of Use of a prohibited substance, namely Thymosin Beta-4 and sanctioned for a two year period.

- WADA have advised ASADA that the appeal deadline for lodging an appeal to the Swiss Federal Court is within 30 days of receiving notification of the decision by CAS.

- Appeals to the Swiss Federal Tribunal are allowed on limited grounds, such as lack of jurisdiction, violation of elementary procedural rules (such as a right to a fair hearing) or incompatibility with public policy.

- 11 February 2016: Statement from AFL Players CEO, Paul March regarding the players' reason for appealing to the Swiss Federal Court:

    - All 34 current and past Essendon players have instructed lawyers to file an appeal against the CAS decision.
    - The decision to appeal was a decision for each individual player alone having regard for their own circumstances.
    - The appeal has been made on the ground that the CAS erred in determining that the WADA appeal should be conducted as a de novo hearing. That is, WADA should only have been allowed to appeal the unanimous decision of the AFL Anti-Doping Tribunal on grounds of either legal error or that it was grossly unreasonable.

Rule change

- Media reports prior to the appeal decision by the players includes commentary from Western Bulldogs President, Peter Gordon that the AFL Anti-Doping Code was changed between 2010 and 2015 to the detriment of the players in that the rules were changed to include de novo hearings.

- The rule that Mr Gordon appears to be referring to was not a rule in the 2010 AFL Anti-Doping Code, but ancillary AFL rules and regulations. The issue that he raises was considered by the CAS and CAS made a ruling that the rules were procedural in nature and that the 2015 rules applied to the case.

- It would be inappropriate to comment on the specifics of the rule changes as the issue may be the subject of live argument at an appeal.

- The AFL Appeals Board has also made an identical decision as the CAS and when it examined the AFL rules and decided that Appeals were to be complete re-hearings.

- This position accords to ASADA's view that the rule changes were procedural in nature and did not substantively change the appeal rights that were previously afforded to WADA.

Author: s22 [redacted]

Executive Clearance: s22 [redacted]

Date Cleared: 2 March 2016

ADDITIONAL ESTIMATES HEARING— 10 FEBRUARY 2016

Brief Number 10

Brief Title: Pre-Olympic and Paralympic programs/Commonwealth Games

KEY POINTS

- The anti-doping programs for the 2016 Rio Olympic and Paralympic Games commenced on 1 July 2015 in close collaboration with the Australian Olympic Committee and Australian Paralympic Committee.

- The majority of ASADA's government-funded testing in 2015-16 will be directed towards Olympic and Paralympic sports and athletes likely to qualify.

- The Australian Olympic Team will have an estimated 460 athletes, and the Australian Paralympic Team will include about 160 athletes.

- ASADA will work with the Australian Commonwealth Games Association (ACGA) to develop and implement an anti-doping testing and education program for Australian athletes in the lead up to the Gold Coast 2018 Commonwealth Games.

- ASADA has had preliminary discussions with the Gold Coast 2018 Commonwealth Games Corporation (GOLDOC) but is

not currently aware of what anti-doping plans are in place for the Games' competition period. This comes under the responsibility of GOLDOC.

- The Queensland Government and Gold Coast 2018 Commonwealth Games Corporation procurement of anti-doping services is scheduled to commence from 1 October 2016.

BACKGROUND

Rio 2016 Olympic and Paralympic Games

- The Rio 2016 Olympic and Paralympic Games will be held from 5 to 21 August 2016 and 7 to 18 September 2016 respectively.

- The 2016 Rio Olympic and Paralympic Games anti-doping programs commenced on 1 July 2015 and will continue to the defined in-competition period commencing from the opening of the Olympic Village on 24 July 2016, and Paralympic Village on 31 August 2016.

- The programs have been developed and implemented in collaboration with the Australian Olympic Committee and Australian Paralympic Committee to:
    - reduce the risk of anti-doping rule violations among the Australian Olympic Team (AOT) and Australian Paralympic Team through the implementation of an integrated, intelligence-led anti-doping program

- detect any potential members of the AOT who may be doping
- increase awareness and understanding among AOT members of their anti-doping rights and responsibilities as they relate to the 2016 Rio Olympic Games through education and engagement with sports and athletes.

- The risk-based program targets testing towards high-priority sports and at-risk athletes. All AOT athletes in the top eight priority sports of athletics, boxing, canoeing, cycling, rowing, swimming, triathlon and weightlifting will be tested at least once in the lead-up to Rio.

- Progress of pre-Games testing as at 28 January 2016.

Australian Olympic Team

	Shadow team	Number tested	Percentage tested
Overall	1085	339	31%
Top-8 priority sports	441	193	44%
Highest-rated athletes*	399	179	44%

Australian Paralympic Team

	Shadow team	Number tested	Percentage tested
Overall	246	15	6%
Highest-rated athletes*	156	11	7%

* Athletes have been rated by the AOC and the APC on the likelihood of selection to the final team. ASADA has been focusing testing resources to those athletes in the' most likely' category.

- Twelve ASADA Doping Control Officers have nominated to fill positions at Rio 2016; ASADA has not been advised of the outcome of this process.

Gold Coast 2018 Commonwealth Games

- The Gold Coast 2018 Commonwealth Games will be held from 4 to 15 April 2018 (just over two years away).

- The Queensland Government and Gold Coast 2018 Commonwealth Games Corporation have developed a Procurement Plan for GC2018 that states procurement for anti-doping services will commence in October 2016.

- On 18 January 2016 the Gold Coast Bulletin published a front-page story stating that ASADA 'will be forced to apply for the tender to be the official drug testers of the 2018 Games' and, 'ASADA's handling of the Essendon Football Club saga has cast doubt over the watchdog's competence.' (Refer attachment.)

Author: s22 [redacted]

Executive Clearance: s22 [redacted]

Date Cleared: 29 January 2016

18 Jan 2016
Gold Coast Bulletin, Gold Coast QLD

Author: Jack Houghton; Jack Houghton • Section: General News
Article type : News Item • Audience : 28,029 • Page: 1 • Printed Size: 1100.00cm²
Market: QLD • Country: Australia • ASR: AUD 6,943 • Words: 1109 • Item ID: 527179768

Cheat once, get life: Athletics boss promises clean 2018

ROPE A DOPE

EXCLUSIVE
JACK HOUGHTON

ATHLETICS Australia has called for doping athletes to be banned for life in order to deliver a clean 2018 Commonwealth Games.

Chief executive Phil Jones has vowed cheating athletes will not sabotage the Gold Coast Games and will push for zero tolerance.

His comments come as many in the international athletics community, led by UK Athletics, have called for a line to be drawn through all pre-existing world records and to start again.

Gold Coast Olympic discus thrower Dani Samuels also supported the call for lifetime bans.

The *Gold Coast Bulletin* can also reveal the Australian Sports Anti-Doping Authority will be forced to apply for the tender to be the official drug testers of the 2018 Games. P4

GC GAME CHANGER

18 Jan 2016
Gold Coast Bulletin, Gold Coast QLD

Author: Jack Houghton; Jack Houghton • Section: General News
Article type : News Item • Audience : 28,029 • Page: 1 • Printed Size: 1100.00cm²
Market: QLD • Country: Australia • ASR: AUD 6,943 • Words: 1109 • Item ID: 527179768

Clean test for Games

JACK HOUGHTON
EXCLUSIVE

ATHLETICS Australia has called for doping athletes to be banned for life in order to deliver a clean 2018 Commonwealth Games.

Chief executive Phil Jones has vowed cheating athletes will not sabotage the Gold Coast Games and will push for zero tolerance.

His comments come as many in the international athletics community, led by UK Athletics, have called for a line to be drawn under all pre-existing world records and to start again.

The 2016 Rio Olympics are under a cloud with Russia's track and field athletes facing the prospect of a ban unless the country can prove it has cleaned up its culture of drugs.

The *Gold Coast Bulletin* can also reveal the Australian Sports Anti-Doping Authority will be forced to apply for the tender to be the official drug testers of the 2018 Games.

It is understood ASADA'S handling of the Essendon Football Club saga has cast doubt over the watchdog's competence.

Mr Jones said the onus was on drug-detection agencies throughout the world to work together on a unified zero-tolerance approach.

Gold Coast discus Olympian Dani Samuels, 27, has backed the call for life bans.

"Whether it is a first time or a second time ban for steroids or other performance-enhancing drugs, the penalties need to be tougher to stamp it out and make the sport clean," she said.

"We are all told it is our responsibility at the end of the line and young athletes grow up being taught that."

Last week, UK Athletics released 14 recommendations calling on countries around the world to adopt a series of tough and controversial measures to catch dopers. These included resetting world records and banning dopers from competition for life.

Currently, under the World Anti-Doping Code, a first-time offender is banned for four years.

"One of the things the UK recommends is looking at the penalties for doping and there are merits at looking at whether the current penalties are too soft," Mr Jones said.

"If that ban was for life the athlete would not be able to secure prizemoney and their livelihood would be removed.

"Elite athletes really have no excuse for not being aware about what they can and can't put in their system. There needs to be a level of personal responsibility."

Mr Jones said his organisation had "quickly reviewed" the UK Athletics manifesto and confirmed he would write an official letter to the International Athletics Foundation indicating which recommendations Australia supported.

"I have to say that resetting the records on the face of it looks inappropriate keeping in mind many of the records were set by people who are clean but a few of the points warrant further thought.

"We want to ensure that our athletes are clean and from a broader perspective we want to make sure they are competing on the same field and the platform is even and that no one is taking performance-enhancing drugs."

Mr Jones said he would investigate another key recommendation which involved compensating athletes who retrospectively win medals after drug cheats are exposed.

Queensland long jumper Bronwyn Thompson was robbed of her gold medal at Athens in 2004 by three Russians who took all three medal places.

The gold medallist Tatyana Lebedeva was suspected of doping but organisers declined to retest her 2004 sample before discarding it two years ago. She is now vice-president of the Russian track federation which has been accused of forcing athletes to dope.

A Russian athlete also robbed Australian walking champion Jared Tallent (pictured left) of a gold medal at the London Olympics in 2012.

"I sympathise with Bronwyn Thompson's story," Mr Jones said. "The impact of people who are beaten by dopers is significant but hard to calculate from a financial view.

"Where they have not been entitled to the prizemoney or won grants they may have been eligible for compensation. It is an area we need to look at."

The international push to remove performance-enhancing drugs from sport comes as ASADA admitted to being unable to completely stop cheating athletes from competing at the 2018 Games.

ASADA national manager of operations Trevor Burgess said black market scientists were developing "hundreds, if not thousands, of new or modified substances" every year – many of which cannot even be detected yet.

"While testing is integral to a comprehensive anti-doping program, testing alone will not catch every athlete who engages in doping," he said.

"Every year there are hundreds, if not thousands, of new or modified substances developed in laboratories, or new products released on to the market or black market.

"There are also people willing to push the boundaries with experimental substances and methods which have not been clinically tested or approved for human use."

Mr Burgess said ASADA had been regularly meeting with customs and law enforcement agencies and confirmed the "intelligence and investigations" would play a major role in selecting which athletes were targeted by tests.

The Gold Coast 2018 Commonwealth Games Corporation (GOLDOC) said that ASADA was not guaranteed to win the drug-testing contract for the Games and revealed a tender would be released in the "last quarter of 2016".

"The anti-doping program will be conducted in accordance with the Commonwealth

Games Federation (CGF) Anti-Doping Standard and in compliance with the provisions of the World Anti-Doping Code and accompanying international standards," a GOLDOC spokeswoman said.

"GOLDOC will work closely with the CGF in planning the anti-doping program, ensuring that the current doping issues are being considered.

"During GC2018, a comprehensive testing program, including collection of athlete samples both in and out of competition, will be implemented.

"GOLDOC is committed to working with the CGF to implement an effective, yet athlete-focused, anti-doping program to achieve our aim of a clean GC2018."

Penalties need to be tougher to stamp it out

DANI SAMUELS

Gold Coast Olympic discus thrower Dani Samuels had backed Athletics Australia for life bans on drug cheats.

ADDITIONAL ESTIMATES HEARING—10 FEBRUARY 2016

Brief Number 11

Brief Title: Key statistics – ASADA operations

Program	Description	2014–15	2015–16 (as at 31 Dec 2015)	Page reference
Deterrence	Education – completions	15,298	**8,082**	3
	TUE applications	369	**126**	3
	CYS searches	101,752	**51,615**	3
Detection	Testing: GF	2,742	**1,410**	2
	Testing: UP	2,404	**1,580**	2
	Stamp out doping hotline	122	**62**	4
	Disclosure notices	13	**2**	4
	Samples tanked	621	**79**	5
Other	FOI requests	21	**10**	5
Enforcement	Sanctions	45	**52**[1]	6 or Brief 19
	Show cause notices	54	**9**	5 or Brief 19
	Assertions[2]	11	**14**	5

[1] As at 5 February 2016

[2] Assertions began on 1 January 2015.

BACKGROUND

Activity	Description	2014–15	2015–16 as at 31 Dec 2015
Testing: Govt-funded	IC urine	768	403
	OOC urine	1,125	552
	Total urine	**1,893**	**955**
	IC blood	98	33
	OOC blood	751	422
	Total blood	**849**	**455**
	Total urine + blood	**2,742**	**1,410**
Testing: User-pays	IC urine	799	446
	OOC urine	1,045	875
	Total urine	**1,844**	**1,321**
	IC blood	6	3
	OOC blood	554	256
	Total blood	**560**	**259**
	Total urine + blood	**2,404**	**1,580**

Activity	Description	2014–15	2015–16 as at 31 Dec 2015
Education: core resources	Level 1 online	8,603	4,696
	Level 2 online	4,986	1,894
	Face-to-face	1,709	1,492
	Total	**15,298**	**8,082**
TUEs	Approved	234	77
	Not required	52	20
	Determined as planned retroactive	30	16
	Rejected	5	2
	Other (closed or pending)	48	11
	Total received	**369**	**126**
Substance searches	Check Your Substances	99,001	50,575
	Hotline calls (medications, substances or supplements)	2,751	1,040

Activity	Description	2014–15	2015–16 as at 31 Dec 2015
Stamp out doping	Online form	87	41
	Hotline or telephone	18	12
	Email	8	5
	Post	1	1
	Human source	8	3
	Total	**122**	**62**
Disclosure notices	Notices issued[3]	13	2
	Persons/entities issued notices	5	1
	Infringement notices	0	0
	Persons/entities served infringement notices	0	0

[3] Noting these numbers include persons/entities issued replacement disclosure notices

Activity	Description	2014–15	2015–16 as at 31 Dec 2015
Long-term storage facility	Urine samples	45	9
	Blood samples	576	70
	Total urine + blood	**621**	**79**
	Total samples tanked – urine + blood (since 2007)	**5,450**	**5,529**
FOI requests	Received	21	10
	Finalised	20	7
	Being processed	2	3
	Refused	11	3
Show cause notices	Athletes	53	9
	Support personnel	1	0
	Total	**54**	**6**
	Sports	10	4

Activity	Description	2014–15	2015–16 as at 31 Dec 2015
ADRVP assertions	Athletes	11	13
	Support personnel	0	1
	Total	**11**	**14**
	Sports	5	9

Activity	Description	2014–15	2015–16 as at 2 Mar 2016
Sanctions	Athletes	44	52
	Support personnel	1	0
	Total	**45**	**54**
	Sports	11	9

ADDITIONAL ESTIMATES HEARING— 10 FEBRUARY 2016

Brief Number 12

Brief Title: Agency Budget and Financial Situation

KEY POINTS

- ASADA's ASL is forecast to reduce from 60 to 57 in 2015-16, primarily due to the full year effect of the transition to shared services and planned efficiency measures in test collection services.
    - The ASL forecast for 2016-17 and out years is 50.

- ASADA's resources over the forward estimates do not currently allow for engagement in the 2018 Gold Coast Commonwealth Games beyond the delivery of a pre-games program to ensure the integrity of Australian athletes participating in the games.
    - ASADA will work with the Australian Commonwealth Games Association (ACGA) to develop and implement an anti-doping testing and education program for Australian athletes in the lead up to the Gold Coast 2018 Commonwealth Games.

- ASADA's resource position over the forward estimates remains challenging with a reliance on the implementation of potential savings from revised test collection arrangements and other initiatives to respond to the challenges of the Efficiency Dividend and other lapsing measures without impact on our operational capability.

BACKGROUND

- ASADA is currently forecasting an operating surplus in 2015-16 of approximately $0.665m primarily due to the outcome of Federal Court cost orders settlements (Hird & Essendon) exceeding the estimates included in the 2014-15 financial statements by approximately $0.750m ($1.320 m vs. $0.555m). The projected surplus will be reflected in the 2015-16 PBS.

- At the time of the 2015-16 PBS ASADA received an approval for a maximum loss of $0.750m for 2014-15 (from existing resources). The projected loss arose from one-off resources required to respond to the scope of the enforcement phase of ASADA's investigation following on from the Australian Crime Commission's report Organised Crime and Drugs in Sport.

- The actual result for 2014-15 was a surplus (before unfunded depreciation costs) of $0.725m (a difference of $1.475m). The variance arises primarily as a result of a combination of two factors unable to be anticipated at the time of the PBS.

- MOU funding from Health of $0.810m provided to offset Cobia external legal costs.
- The recognition of a conservative recovery estimate of $0.555m from cost orders before the Federal Court

- After adjustment for the effect of the MOU funding and cost order estimates ASADA's operating deficit was $0.640m, $0.110m below the loss approved for the financial year.

- During 2014-15 the Agency implemented a revised operating model with a forecast reduction in the Average Staffing Level (ASL) from 80 to 60 (25%) in response to the lapsing of the 2014-15 measure additional funding measure ($0.340m) and one-off MOU support from the Department of Health ($0.735k) combined with adjusting activity from a $1.253m operating loss in 2013-14.

- The actual ASL for 2014-15 was 58.

- ASADA's resource position over the forward estimates remains challenging with a reliance on the implementation of potential savings from revised test collection arrangements and other initiatives to respond to the challenges of the Efficiency Dividend and other lapsing measures without impact on our operational capability.

- Due to a combination of the increased complexity of non-analytical anti-doping violations and the increase in protracted and contested violations, ASADA is limited in its potential to prosecute potential violations without recourse to additional resources as was the case in the 2013-14 and 2014-15 financial years.

Author: s22 [redacted]

Executive Clearance: s22 [redacted]

Date Cleared: 20 January 2016

ASADA Finances over Time
Projection 2011-12 thru 2017-18

	2011-12 Actual Outcome $ 000's	$ 000's	2012-13 Actual Outcome $ 000's	$ 000's	2013-14 Actual Outcome $ 000's	$ 000's	2014-15 PBS Budget $ 000's		2014-15 Est. Actuals $ 000's	$ 000's	Annual 2014-15 Actuals $ 000's	$ 000's	Annual 2015-16 Budget $ 000's	$ 000's	Annual 2016-17 Projection $ 000's	$ 000's	Annual 2017-18 Projection $ 000's	$ 000's	Annual 2017-18 Projection $ 000's
REVENUE																			
Appropriations																			
- Baseline	12,883	(356)	12,527	0	12,527	(103)	12,424	(18)	12,406	18	12,424	(319)	12,105	(772) [6]	11,333	200	11,533	114	11,647
- MYEFO Savings Measure Restoration	-	-	-	-	-	-	-	-	-	-	-	-	-	302	302	-	302	-	302
- 13-14 Measure	-	400	400	450	850	(340)	510	-	510	-	510	(510)	-	-	-	-	-	-	-
- One-off VR Funding	-	-	-	671	671	(671)	-	-	-	-	-	129	129	(129)	-	-	-	-	-
	12,883	**44**	**12,927**	**1,121**	**14,048**	**(1,114)**	**12,934**	**(18)**	**12,916**	**18**	**12,934**	**(700)**	**12,234**	**(599)**	**11,635**	**200**	**11,835**	**114**	**11,949**
User-Pays Revenues/Other	1,647	43	1,690	315	2,005	(509)	1,496	222	1,718	(65)	1,653	53	1,706	12	1,718	-	1,718	-	1,718
Federal Court Cost Recoveries [7]	-	-	-	-	-	-	-	-	-	555	555 [7]	210	765 [7]	(765)	-	-	-	-	-
MOU Funding																			
- ABP	-	300	300	-	300 [1]	-	300	-	300	-	300	-	300	(300)	-	-	-	-	-
- Cobia	-	450	450	490	940	(940)	-	-	-	810	810 [8]	(810)	-	-	-	-	-	-	-
External Revenues	**1,647**	**793**	**2,440**	**805**	**3,245**	**(1,449)**	**1,796**	**222**	**2,018**	**1,300**	**3,318**	**(547)**	**2,771**	**(1,053)**	**1,718**	**-**	**1,718**	**-**	**1,718**
TOTAL REVENUE	**14,530**	**836**	**15,366**	**1,927**	**17,293**	**(2,563)**	**14,730**	**204**	**14,934**	**1,318**	**16,252**	**(1,247)**	**15,005**	**(1,652)**	**13,353**	**200**	**13,553**	**114**	**13,667**
EXPENSES																			
Employee Expenses	**8,669**	**347**	**9,017**	**687**	**9,704** [2]	**(1,631)**	**8,073**	**(389)**	**7,684**	**(154)**	**7,530**	**249**	**7,779**	**(813)**	**6,966**	**175**	**7,141**	**175**	**7,316**
ASL	**74.0**	5.0	**79.0**	1.0	**80.0**	(18.0)	**62.0**	(2.0)	**60.0**	(2.0)	**58.0** [3]	(1.0)	**57.0** [4]	(5.3)	**51.6** [5]	(0.3)	**51.4** [5]	-	**51.4**
Consultants/Contractors	414	75	489	225	714	(714)	-	-	-	661	661	(138)	523	112	634	12	647	-	647
Travel	292	98	391	(75)	316	(316)	-	-	-	366	366	(78)	288	5	293	5	298	-	298
Supplier Expenses	5,060	342	5,402	2,411	7,812	(1,155)	6,657	1,343	8,000	(1,030)	6,970	(1,220)	5,750	(290)	5,460	8	5,467	(61)	5,406
TOTAL EXPENSES attrib. to ASADA	**14,435**	**862**	**15,298**	**3,248**	**18,545**	**(3,815)**	**14,730**	**954**	**15,684**	**(157)**	**15,527**	**(1,187)**	**14,340**	**(987)**	**13,353**	**200**	**13,553**	**114**	**13,667**
SURPLUS/(DEFICIT) attrib. to ASADA	**95**	**(26)**	**69**	**(1,321)**	**(1,253)**	**1,253**	**-**	**(750)**	**(750)**	**1,475**	**725**	**(60)**	**665** [9]	**(665)**	**-**	**0**	**0**	**0**	**0**
Depreciation & Amortisation	702	41	743	(49)	694	(140)	554	-	554	(45)	509	5	514	(71)	443	(5)	438	(98)	340
TOTAL EXPENSES	**15,137**	**903**	**16,041**	**3,199**	**19,240**	**(3,956)**	**15,284**	**954**	**16,238**	**(202)**	**16,036**	**(1,182)**	**14,854**	**(1,058)**	**13,796**	**195**	**13,991**	**16**	**14,007**
SURPLUS/(DEFICIT) attrib. to GOV'T	**(607)**	**(67)**	**(674)**	**(1,272)**	**(1,947)**	**1,393**	**(554)**	**(750)**	**(1,304)**	**1,520**	**216**	**(65)**	**151**	**(594)**	**(443)**	**5**	**(438)**	**98**	**(340)**

Notes

1 – $940k comprising $205k Downes Review, $735k DoH support

2 – Includes $595k redundancy provision.

3 – ASL movement of 62 to 58 represents unfilled staff vacancies (Avg. 2 ASL) as part of the loss mitigation strategy and positions filled by non-ongoing contract staff (2 ASL).

4 – Reflects full year shared services reductions, and projected staff reduction through productivity increases in test collections.

5 – 3 ASL reduction included in the 2014-15 MYEFO measure.

6 – The net reduction of $559k primarily reflects one-off redundancy funding of $129k in 15-16 and a net reduction of $470k in 16-17 after restoration of $302k in MYEFO savings (previously $708k).

7 – Federal Court Recoveries total $1,320k including $1,279k relating to the EFC/Hird matters and an estimate of $41k relating to the XZTT matter.

8 - $810k represents DoH support for Cobia legal costs.

9 – The $665k surplus is not currently reflected in ASADA's estimates. It reflects an estimated surplus of $765k relating to the recovery of Federal Court costs in excess of the $555k estimate included in the 2014-15 accounts less an estimate of $100k for the increased commitment to the AOC pre-Olympic program.

ADDITIONAL ESTIMATES HEARING— 10 FEBRUARY 2016

Brief Number 14

Brief Title: Agency Staffing

KEY POINTS

- In 2014-15 ASADA's Average Staffing Level (ASL) was planned to reduce from 80 ASL in 2013-14 to 62 ASL, a reduction of 18 ASL (23%).

- The 2014-15 Estimated Actuals forecast a further reduction to 60 ASL (25%), due to short-term loss mitigation strategies in response to an approved loss of $0.75m. These loss mitigation strategies included delayed recruitment action on non-essential vacant positions and the use of labour hire arrangements in non-ongoing positions.

- The actual ASL for 2014-15 was 58 due to these loss mitigation strategies.

- ASADA is projecting a further reduction to 57 ASL in 2015-16. This is mostly as a result of the full year effect of the transition to shared services and planned efficiency measures in test collection services.

BACKGROUND

Average Staffing Levels (ASL)			
Date	Full & Part-Time	Casuals	ASL
30 June 2008	58.0	12.0	70.0
30 June 2009	56.0	12.0	68.0
30 June 2010	56.4	12.0	68.4
30 June 2011	63.0	12.0	75.0
30 June 2012	60.0	12.0	72.0
30 June 2013	66.2	12.8	79.0
30 June 2014	67.5	12.5	80.0
30 June 2015	52.5	5.5	58.0
30 June 2016*	50.2	6.8	57.0
YTD to 31 December 2015	47.8	3.0^	50.8

* As per the 2015-16 PBS

^ Reflects the actual hours worked by casuals to date this financial year represented as a FTE.

- The 2014-15 reduction from 80 – 58 ASL was a result of:
  - The post COBIA transition to a results management phase (funded through a $1.25M loss in the 2013-14 FY) (approximately six (6) ASL).

- A reduction in test planning and collection staff as the Agency transitions to a smaller, more targeted testing program which facilitates a shift to more intelligence based investigations and testing in line with the revised Code (six (6) ASL).

- Responses to the Efficiency Dividend (ED) and the mid-year move to portfolio based "shared services" (six (6) ASL).

- Delayed recruitment actions on vacancies across the agency, as part of the loss mitigation strategy, giving us an average of two (2) ASL.

- The use of labour hire staff to fulfill short-term vacancies (two (2) ASL).

- ASADA anticipates further reductions in ASL over the forward estimates in response to:

  - The 2014-15 MYEFO (Tranche 3 smaller government) savings measure (three (3) ASL from 2016-17); and

  - Further changes to the Agency's test collection volumes and test collection processes, consistent with the move to a more targeted testing approach.

The following provides data on ASADA staff headcount as at 31 December 2015:

Ongoing, non-ongoing and casual staff by classification groups and location at 31 December 2015											
State	APS1	APS2	APS3	APS4	APS5	APS6	EL1	EL2	SES	CEO	Total
ACT	15		2	5	10	9	10	6	2	1	60
NSW	46		2	1							49
NT	1		1								2
QLD	37		4	1							42
SA	17		2								19
TAS	16		2								18
VIC	31		2	3			1				37
WA	15		3								18
Total	178		18	10	10	9	11	6	2	1	245

- The above figures include six (6) full and part-time Doping Control Officers (at the APS 4 level) and 17 Casual Doping Control Officers (at the APS 3 level). The do not include an Australian Federal Police employee who is seconded at the EL2 level.

Author: s22 [redacted]

Executive Clearance: s22 [redacted]

Date Cleared: 1 February 2016

ADDITIONAL ESTIMATES HEARING– 10 FEBRUARY 2016

Brief Number 15

Brief Title: Media Monitoring

KEY POINTS

- ASADA's total media monitoring and transcript cost for the first 6 months of the current financial year is **$48,729** (GST inclusive).

BACKGROUND

- ASADA engages Isentia to provide monitoring services for Australian print, television and radio media.

- ASADA's increased media profile arising from the Cobia investigation has resulted in an increase in media monitoring costs.

- The table over the page sets out ASADA's media monitoring and transcript costs for previous financial years:

Period	iSentia	Meltwater	TOTAL
2011–12	$28,596	$5,515	$34,111
2012–13	$87,181	$6,716*	$93,897^
2013–14	$93,790	$6,716	$100,506^
2014–15	$97,352	$3,360#	$100,712^
1 Jul 2015 to 1 Jan 2016	$48,729	n/a#	$48,729

Author: s22 [redacted]

Executive Clearance: s22 [redacted]

Date Cleared: 1 February 2016

ADDITIONAL ESTIMATES HEARING—10 FEBRUARY 2016

Brief Number 16

Brief Title: Domestic and International Travel

KEY POINTS

- ASADA has fully implemented and is fully compliant with Whole of Government (WOAG) travel guidelines.

Domestic travel

- Half year costs for 2015–16 were **$105,456** (2014–15: $225,274).

International travel

- Half year costs for 2015–16 were **$11,691** (2014–15: $87,673).

  NB: All costs included in the brief are exclusive of GST.

BACKGROUND

Domestic travel undertaken in 2015–16	Cost
Airfares	$43,479
Accommodation	$24,573
Travel Allowance	$19,670
Taxi	$12,861
Car Hire	$2,154
Incidentals	$2,719
TOTAL	**$105,456**
International travel undertaken in 2015–16	**Cost**
Airfares	$8,254
Accommodation	$1,917
Travel Allowance	$1,025
Incidentals	$495
TOTAL	**$11,691**

Detailed breakdown of 2015-16 International Travel by Trip

Trip Destination	Traveller	Purpose of Travel	Costs ($)
Canada 28 Sept to 9 Oct 2015	s22 Director, Sport Engagement	Attend WADA conference and meeting	11,348
Malaysia 1 to 5 Sept 2015	s22 Admin Officer, Athletics Service	Attend and present Malaysia Anti-Doping TUE Education Seminar	343*
		Total	**$11,691**

* These represent the net cost of the trips to ASADA. Malaysia Anti-Doping has reimbursed the majority of costs (airfares and accommodation) incurred with the exception of incidentals costs and travel allowance.

Airline Lounge Memberships

- In line with the WOAG travel guidelines ASADA only provides lounge memberships to SES staff as a condition of their employment contracts. All current memberships are with Qantas at a cost of $275 per membership year.

Support or Administrative officers – travellers

- In the 2015-16 financial year, no officials have accompanied SES officers on official travel for support or administrative purposes.

Author: s22 [redacted]

Executive Clearance: s22 [redacted]

Date Cleared: 1 February 2016

ADDITIONAL ESTIMATES HEARING– 10 FEBRUARY 2016

Brief Number 17

Brief Title: Enterprise Bargaining

KEY POINTS

- ASADA issued the Notice of Employee Representational Rights (NERR) on 22 January 2016, and bargaining meetings are scheduled to commence this month.

- ASADA did not wish to commence the bargaining process before the outcome of the Contestability Review (CR) of its Test Collection processes was finalised. Ongoing and casual staff engaged in the Test Collection process represent 195 of 245 (80%) of staff potentially covered by any future enterprise agreement.

BACKGROUND

- The 2012- 2014 ASADA EA reached its nominal expiry date on 30 June 2014. Prior to this date, ASADA and the CPSU reached agreement on representation and facilities, namely:
  - Paid time for the casual ASADA CPSU representative consistent with the previous EA bargaining process.

- One initial face-to-face meeting for the ASADA representative with telephone meetings thereafter.
- Meetings to be held at the Canberra office.

- ASADA conducted a presentation for staff on Wednesday, 3 September 2014 to introduce staff to the current enterprise bargaining environment as well as to commence the pre-bargaining consultation processes.

- The CPSU also held two meetings with staff on 22 and 23 October 2014.

- Since then, ASADA has been working with the APSC to finalise a streamlined draft agreement consistent with the APS Bargaining Framework. The APS Commissioner approved the CEO's remuneration proposal on 22 January 2016.

Author: s22 [redacted]

Executive Clearance: s22 [redacted]

Date Cleared: 1 January 2016

ADDITIONAL ESTIMATES HEARING– 10 FEBRUARY 2016

Brief Number: 18

Brief Title: Restructuring in the Field

KEY POINTS

- ASADA is currently undertaking a restructure of its field based test collection group in response to a contestability review of its testing activities.

- This restructuring will involve a reduction in the number of ongoing Doping Control Officers from 7 to 4, as a consequence of the progressive reduction in testing numbers in recent years, plus the increased proportion of targeted testing.

- All affected staff have been advised of the changes, as has the CPSU.

BACKGROUND

- ASADA is currently undertaking a restructure of its field based test collection group in response to a contestability review (CR) of its testing activities. The CR indicated scope for increased efficiency in our field operations and recommended the conduct of an internal review in parallel with an independent market assessment of alternative providers.

- Both reviews were conducted and finalised in the second half of 2015. The recommendation arising from the reviews was that ASADA continue to undertake field services internally (based on no compelling economic advantage arising from the market assessment) and the adoption of recommendations of the internal review, which were accepted by the CEO.

- The most significant initial changes arising from the recommendations is a restructuring of the field staff with a reduction in permanent Doping Control Officers (DCO's) from 7 to 4, aimed at responding to a reduced level of testing, and the increased occurrence of irregular and more targeted testing activities.

- The other changes to be phased in over the next 18 months to gain extra efficiencies include the
  - introduction of a more centralised logistics model,
  - revision of the current policies and procedures to reduce duplication and inefficiencies,
  - development and introduction of sample collection benchmarks as part of an ongoing process improvement program,
  - undertaking of a comprehensive review of current blood collection arrangements and the examination of opportunities for improved test planning to reduce the incidence of “Missed Missions”.

- ASADA anticipates approximately 3 potentially excess positions to be actioned by the end of the 2015-16 financial year. All affected staff have been advised of the changes which will primary affect officers in Sydney, Melbourne and Canberra. The CPSU has been kept abreast of the review outcomes and the implementation.

Author: s22 [redacted]

Executive Clearance: s22 [redacted]

Date Cleared: 20 January 2016

ADDITIONAL ESTIMATES HEARING—10 FEBRUARY 2016

Brief Number 19

Brief Title: Sanctions and Show Cause notices

KEY POINTS

Sanctions

- In 2015–16 (until 2 March 2016), 9 sports have issued 54 sanctions for anti-doping rule violations.

- In the 2014–15 financial year, 11 sports have issued 45 sanctions for anti-doping rule violations.

Show Cause

- In 2015–16 (until 5 February 2016), 7 sports have issued 9 show-cause notices for anti-doping rule violations.

- In the 2014–15 financial year, 10 sports have issued 54 show-cause notices for anti-doping rule violations.

BACKGROUND

Sanctions

Code	Sanctions 2014–15	Sanctions 2015–16
Australian Rules Football	2	37
Rugby League	18	8
Canoe/ Surf Life Saving Australia	3 (SLSC)	1
Rugby Union		1
Bodybuilding	10	2
Baseball	1	2
Table Tennis		1
Athletics	2	
Cycling	1	
Powerlifting	3	1
Tennis	1	
Weighlifting	2	
Wrestling	2	
TOTAL	45	54

Show cause notices

Code	Show Cause 2014–15	Show Cause 2015–16
Australian Rules Football	4	
Rugby League	29	3
Surf Life Saving Australia	3	
Bodybuilding	10	1
FFA	1	
Baseball	2	
Darts	1	
Cycling	1	
Table Tennis		1
Weighlifting	1	1
Wrestling	2	
Gymnastics		1
Powerlifting		1
Swimming		1
TOTAL	54	9

Author: s22 [redacted]

Executive Clearance: s22 [redacted]

Date Cleared: 2 March 2016

Agency Advice 13 2015-16

Topic	Parliamentary Question on Notice (PQN) for Alcoholic Beverages		
Purpose	To seek advice from agencies following a Parliamentary Question on Notice in relation to expenditure on alcoholic beverages within the Health Portfolio.		
Agreement	Individual Agency Agreement (IAA) – Health / Portfolio Agency		
Audience	All Portfolio Agencies		
Start Date	12 Nov 2015	**End Date**	13 Nov 2015

Summary

Health has received the following Parliamentary Question on Notice in relation to expenditure on alcoholic beverages. Urgent advice **including NIL responses** from Portfolio Agencies is required in relation to the below question by **COB Friday 13 November 2015.**

Advice received by Health on the question below has indicated that this is targeted at **alcohol purchases,** e.g. the purchase of alcohol from 1st Choice Liquor. For example, if a staff member attended a conference and part of that included a glass of wine, then this would not be included in a response to this question.

Parliamentary Question on Notice

Senator the Hon: Stephen Conroy asked the Minister for Health, upon notice:

(1) What sum did the department and agencies within the Minister's portfolio spend on the supply of alcoholic beverages in 2014-15,

(2) And for what purpose (s) was the alcohol purchased.

Action required

To enable a consolidated response to this PQN to be tabled, agencies are asked to provide details and a response to the questions above directly to:
Tim Ellis from Health's Finance Branch at Tim.Ellis@health.gov.au with a CC to Shared.Services@health.gov.au **by no later than COB Friday 13 November 2015.**

Should you have any questions, or require further information please contact Tim via 02 6289 8586

Sign-Off & Approval

Approved for transmission – Shared and Common Services Strategy and Account Management, Investment Strategy Branch on behalf of the Financial Integrity & Reporting Improvement section – 12 November 2015

Agency Advice 15 2015-16

Topic	Parliamentary Question on Notice (PQN) for Venue Hire.		
Purpose	To seek advice from agencies following a Parliamentary Question on Notice in relation to expenditure on venue hire within the Health Portfolio.		
Agreement	Individual Agency Agreement (IAA) – Health / Portfolio Agency		
Audience	All Portfolio Agencies		
Start Date	16 Nov 2015	**End Date**	19 Nov 2015

Summary

Health has received the following Parliamentary Question on Notice in relation to expenditure on venue hire. Advice **including NIL responses** from Portfolio Agencies is required in relation to the below question by **COB Thursday 19 November 2015.**

Parliamentary Question on Notice

Senator the Hon Pat Conroy asked the Minister for Health, in writing:

In respect of the departmental and agency venue hire in 2014-15,

a) What total sum was spent;
b) What functions were these hires for; and
c) What dates were these functions held?

Additional Information

We understand that some agencies might not have a separate venue hire GL code, rather they are incorporated into broad GL codes. For Health, we use Conferences & Seminars, External Training & Staff Planning Day. Agencies can provide relevant GL code data where venue hire expenditure is recorded. The department's response will note that these figures include expenses other than venue hire.

This response will be qualified by adding below note;
"The department does not specifically budget by this class of expenditure and therefore the department's financial system does not allow for this information to be collected in one report. Providing a separate detailed venue hire data would involve an unreasonable diversion of resources which the department is not currently in a position to undertake. The department however continues to seek to reduce and minimise expenditure on venue hire by utilizing the department's own facilities".

Action required

To enable a consolidated response to this PQN to be tabled, agencies are asked to provide details and a response to the questions above directly to:
Sonam Choedon from Health's Finance Branch at Sonam.Choedon@health.gov.au with a CC to Shared.Services@health.gov.au **by no later than COB Thursday 19 November 2015.**

Should you have any questions, or require further information please contact Sonam on 02 6289 8375.

Sign-Off & Approval

Approved for transmission – Shared and Common Services Strategy and Account Management, Investment Strategy Branch on behalf of the Financial Analysis & Planning section – 16 November 2015

Agency Advice 16 2015-16

Topic	Parliamentary Question on Notice (PQN) for Taxi Services		
Purpose	To seek advice from agencies following a Parliamentary Question on Notice in relation to expenditure on taxi services within the Health Portfolio.		
Agreement	Individual Agency Agreement (IAA) – Health / Portfolio Agency		
Audience	All Portfolio Agencies		
Start Date	16 Nov 2015	**End Date**	19 Nov 2015

Summary

Health has received the following Parliamentary Question on Notice in relation to expenditure on taxi services. Advice **including NIL responses** from Portfolio Agencies is required in relation to the below question by **COB Thursday 19 November 2015.**

Parliamentary Question on Notice

Senator the Hon Pat Conroy asked the Minister for Health, in writing:

Can the Minister provide an itemised account of departmental and agency taxi service expenditure for 2014-15?

Additional Information

Agencies to provide breakdown of total taxi service expenditure (GST exclusive) by business group/divisions.

Action required

To enable a consolidated response to this PQN to be tabled, agencies are asked to provide details and a response to the questions above directly to:
Sonam Choedon from Health's Finance Branch at Sonam.Choedon@health.gov.au with a CC to Shared.Services@health.gov.au **by no later than COB Thursday 19 November 2015.**

Should you have any questions, or require further information please contact Sonam on 02 6289 8375.

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SENATE COMMUNITY AFFAIRS LEGISLATION COMMITTEE

Public Hearings: ADDITIONAL BUDGET ESTIMATES 2015–16

Wednesday 10 February to Thursday 11 February 2016

Committee Room 2S1, Parliament House, Canberra ACT

To be televised on Channel 112 /Radio 90.3, http://www.aph.gov.au/News_and_Events/Watch_Parliament

Departmental Attendance Summary
Health—Wednesday (10/02/2016)—9:00am–11:00pm
Social Services—Thursday (11/02/2016)— 9:00am –6:30pm
Human Services—Thursday (11/02/2016)—7:30pm–11:00pm

WEDNESDAY, 10 FEBRUARY 2016	
	HEALTH PORTFOLIO
	Department of Health (DoH)
TIME	***PROGRAM***
9:00am – 10:00am (60 mins)	**Whole of Portfolio/ Corporate Matters** Australian Institute of Health and Welfare
10:00am – 10:45am (45mins)	**Outcome 3: Access to Medical and Dental Services**
	Program 3.1: Medicare Services Program 3.2: Targeted Assistance—Medical Program 3.3: Pathology and Diagnostic Imaging Services and Radiation Oncology Program 3.4: Medical Indemnity Program 3.5: Hearing Services Program 3.6: Dental Services
10:45am – 11:00am (15 mins)	*Break*
11:00am – 11:55am (55 mins)	**Outcome 3: Access to Medical and Dental Services** (cont.)
	Program 3.1: Medicare Services Program 3.2: Targeted Assistance—Medical Program 3.3: Pathology and Diagnostic Imaging Services and Radiation Oncology Program 3.4: Medical Indemnity Program 3.5: Hearing Services Program 3.6: Dental Services

11:55am – 12:30pm (35 mins)	**Outcome 5: Primary Health Care**
	Program 5.1: Primary Care Financing Quality and Access Program 5.2: Primary Care Practice Incentives Program 5.4: Mental Health Program 5.5: Rural Health Services National Mental Health Commission (NMHC) Medicare Locals GP SuperClinics
12:30pm – 1:30pm (60 mins)	*Lunch*
1:30pm – 2:25pm (55 mins)	**Outcome 5: Primary Health Care** (cont)
	Program 5.1: Primary Care Financing Quality and Access Program 5.2: Primary Care Practice Incentives Program 5.4: Mental Health Program 5.5: Rural Health Services National Mental Health Commission (NMHC) Medicare Locals GP SuperClinics
2:25pm –3:10pm (45 mins)	**Outcome 11: Ageing and Aged Care**
	Program 11.1: Access and Information Program 11.2: Home Support Program 11.3: Home Care Program 11.4: Residential and Flexible Care Program 11.5: Workforce and Quality Program 11.6: Ageing and Service Improvement
3:10pm – 3.45pm (35 mins)	**Outcome 6: Private Health**
	Program 6.1: Private Health Insurance
3:45pm – 4:00pm (15 mins)	*Break*
4:00pm - 4:45pm (45 mins)	**Outcome 2: Access to Pharmaceutical Services**
	Program 2.1: Community Pharmacy and Pharmaceutical Awareness Program 2.2: Pharmaceuticals and Pharmaceutical Services Program 2.3: Targeted Assistance—Pharmaceuticals Program 2.4: Targeted Assistance—Aids and Appliances
4:45pm – 5:55pm (70 mins)	**Outcome 7: Health System Capacity and Quality**
	Program 7.1: e-Health Implementation Program 7.2: Health Information Program 7.3: International Policy Engagement Program 7.4: Research Capacity and Quality

	Program 7.5: Health Infrastructure Program 7.6: Blood and Organ Donation Program 7.7: Regulatory Policy Organ and Tissue Authority Therapeutic Goods Administration National Industrial Chemicals Notification and Assessment Scheme (NICNAS)		
5:55pm – 6:40pm (45 mins)	**Outcome 8: Healthcare Workforce Capacity**		
	Program 8.1: Workforce and Rural Distribution Program 8.2: Workforce Development and Innovation		
6:40pm – 7:40pm (60 mins)	*Dinner*		
7:40pm – 9.00pm (80 mins)	**Outcome 1: Population Health**		
	Program 1.1: Public Health, Chronic Disease and Palliative Care Program 1.2: Drug Strategy Program 1.3: Immunisation National Health and Medical Research Council Food Standards Australia New Zealand (FSANZ)		
9:00pm – 9:15pm (15 mins)	*Break*		
9.15pm – 10.00pm (45 mins)	**Outcome 4: Acute Care**		
	Program 4.1: Public Hospitals and Information		
10:00pm – 10:30pm (30 mins)	**Outcome 9: Biosecurity and Emergency Response**		
	Program 9.1: Health Emergency Planning and Response		
10:30pm – 11:00pm (30 mins)	**Outcome 10: Sport and Recreation**		
	Program 10.1: Sports and Recreation Australian Sports Anti-Doping Authority (ASADA) Australian Sports Commission (ASC)		
Proposed breaks	Morning tea	10:45am	11:00am
	Lunch	12:30pm	1:30pm
	Afternoon tea	3:45pm	4:00pm
	Dinner	6:40pm	7:40pm
	Evening Break	9:00pm	9:15pm

Committee Chair: Senator Zed Seselja
Contact: Community Affairs Committee Secretariat (02) 6277 3516
Email: community.affairs.sen@aph.gov.au
Committee Room 2S1 (02) 6277 5843

THURSDAY, 11 FEBRUARY 2016	
	SOCIAL SERVICES PORTFOLIO
	Department of Social Services (DSS)
TIME	***PROGRAM***
9:00am – 10.30am (90 mins)	**Cross Outcomes/ Corporate Matters** **Grant Programs**
10:30am – 10:45am (15 mins)	*Break*
10.45am – 12.30pm (105 mins)	**Outcome 1: Social Security**
	Program 1.1: Family Tax Benefit Program 1.2: Child Payments Program 1.3: Income Support for Vulnerable People Program 1.4: Income Support for People in Special Circumstances Program 1.5: Supplementary Payments and Support for Income Support Recipients Program 1.6: Income Support for Seniors Program 1.7: Allowances and Concessions for Seniors Program 1.8: Income Support for People with Disability Program 1.9: Income Support for Carers Program 1.10: Working Age Payments Program 1.11: Student Payments
12:30pm – 1:30pm	*Lunch*
1.30pm – 2.15pm (45 mins)	**Outcome 1: Social Security** (cont.)
	Program 1.1: Family Tax Benefit Program 1.2: Child Payments Program 1.3: Income Support for Vulnerable People Program 1.4: Income Support for People in Special Circumstances Program 1.5: Supplementary Payments and Support for Income Support Recipients Program 1.6: Income Support for Seniors Program 1.7: Allowances and Concessions for Seniors Program 1.8: Income Support for People with Disability Program 1.9: Income Support for Carers Program 1.10: Working Age Payments Program 1.11: Student Payments
2.15pm – 3.15pm (60 mins)	**Outcome 5: Disability and Carers**
	Program 5.1: Disability, Mental Health and Carers Scheme Program 5.2: National Disability Insurance Scheme National Disability Insurance Agency
3.15pm – 4.15pm (60 mins)	**Outcome 2: Families and Communities**
	Program 2.1: Families and Communities Program 2.2: Paid Parental Leave

	Program 2.3: Social and Community Services Australian Institute of Family Studies		
4.15pm – 4.30pm (15 mins)	*Break*		
4.30pm – 5:30pm	**Outcome 2: Families and Communities** (cont)		
	Program 2.1: Families and Communities Program 2.2: Paid Parental Leave Program 2.3: Social and Community Services Australian Institute of Family Studies		
5.30pm – 6.30pm (60 mins)	**Outcome 4: Housing**		
	Program 4.1: Housing and Homelessness Program 4.2: Affordable Housing		
6.30pm – 7.30pm (60 mins)	*Dinner*		
	HUMAN SERVICES PORTFOLIO		
	Department of Human Services (DHS)		
7:30pm – 8:00pm (30 mins)	**Australian Hearing**		
8:00pm – 9:00pm (60 mins)	**Whole of Department—Corporate Matters**		
9.00pm – 9.15pm (15 mins)	*Break*		
9:15pm – 11:00pm (105 mins)	**Outcome 1: Support individuals, families and communities to achieve greater self-sufficiency; through the delivery of policy advice and high quality accessible social, health and child support services and other payments; and support providers and businesses through convenient and efficient service delivery.**		
	Program 1.1: Services to the Community - Social Security and Welfare Program 1.2: Services to the Community - Health Program 1.3: Child Support		
Proposed breaks	Morning tea	10:30am	10:45am
	Lunch	12:30pm	1:30pm
	Afternoon tea	4.15pm	4.30pm
	Dinner	6:30pm	7:30pm
	Evening Break	9:00pm	9:15pm

Committee Chair: Senator Zed Seselja
Contact: Community Affairs Committee Secretariat (02) 6277 3516
Email: community.affairs.sen@aph.gov.au
Committee Room 2S1 (02) 6277 5843

Community Affairs

Document 1.23

PARLIAMENT of AUSTRALIA

Parliament of Australia

Legislation Committee Membership

Committee Members

- Chair

Senator Zed Seselja

Liberal Party of Australia , ACT

- Deputy Chair

Senator Rachel Siewert

Australian Greens , WA

- Member

Senator Carol Brown

Australian Labor Party , TAS

- Member

Senator Katy Gallagher

Australian Labor Party , ACT

- Member

Senator Joanna Lindgren

Liberal Party of Australia , QLD

- Member

Senator Dean Smith

Liberal Party of Australia , WA

Participating Members

Senators Eric Abetz, Chris Back, Cory Bernardi, Catryna Bilyk, Joe Bullock, David Bushby, Doug Cameron, Matthew Canavan, Kim Carr, Jacinta Collins, Stephen Conroy, Sam Dastyari, Richard Di Natale, Sean Edwards, David Fawcett, Alex Gallacher, Sarah Hanson-Young, Bill Heffernan, David Johnston, Chris Ketter, Jacqui Lambie, Glenn Lazarus, David Leyonhjelm, Sue Lines, Scott Ludlam, Joseph Ludwig, Ian Macdonald, John Madigan, Gavin Marshall, Jenny McAllister, Anne McEwen, Bridget McKenzie, Nick McKim, Jan McLucas, Claire Moore, Ricky Muir, Deborah O'Neill, Barry O'Sullivan, Nova Peris, Helen Polley, Linda Reynolds, Lee Rhiannon, Janet Rice, Michael Ronaldson, Robert Simms, Lisa Singh, Glenn Sterle, Anne Urquhart, Zhenya Wang, Larissa Waters, Peter Whish-Wilson, John Williams, Penny Wong, Nick Xenophon

SENATE COMMITTEE PUBLIC HEARINGS
ARRANGEMENTS FOR WITNESSES AND ATTENDEES

1. The following arrangements will be observed for public hearings held in Parliament House:
2. Bookings for public hearings should be made to the Senate Hotline Ext 3500 or email senate.hotline@aph.gov.au for inclusion in the Committee Room Inquiry and Booking System (CRIB). Both Black Rod's Office and Security use this system to allocate resources for hearings. Changes to the Committee name, timings and hearing purpose should be emailed once confirmed to senate.hotline@aph.gov.au (cc pssrosteroffice@aph.gov.au). Where a hearing has been listed as public on the CRIB system, the PSS Roster Office will contact committee staff on the day prior to confirm public access timings. Any changes to timings within 24 hours should also be telephoned through to the Roster Office on extension 5862.

Members of the public

3. Members of the public are permitted to access public hearing rooms at any time. They **will not** be required to have a pass to attend a public hearing, nor will they be required to produce any identification.
4. Hearings commencing prior to 9.00 am or after 6.00 pm (or an hour after last house rises on sitting days) are still open to members of the public. In these instances, members of the public will be escorted from the entrance to the Committee Room by a PSS officer. The PSS will endeavour to get members of the public to the hearing room approximately 5 minutes before the scheduled start of the hearing.

Witnesses and attendees

5. Lists of known witnesses to hearings need to be emailed to security at securitypass@aph.gov.au by 3.30 pm the night before the hearing. Security will send an email to acknowledge receipt.
6. All witnesses and attendees, except Commonwealth employees and those with photographic passes, **should** access Parliament House via the main front entrance. (If the main front entrance is closed, a sign will direct them to security point 1 – Main Public Car Park). However, if a non pass holder arrives at the Senate or Reps entry, the ***committee secretariat should be contacted to organise signing in and escort*** of the witness rather than sending the witness to the main front entrance***.*** They **will not** be required to have a pass to attend the hearing. They will be able to access the public facilities (including public toilets on level 2 of the Main Committee Room foyer).
7. Where a hearing commences prior to 9.00 am or after 6.00 pm (or an hour after last house rises on sitting days), witnesses and attendees who are not Commonwealth employees will be escorted to the Committee Room by a PSS officer. In these instances there may be a wait of up to 10 minutes whilst a patrol officer is called. Access to the building will be available up to 45 minutes prior to the scheduled start time of the hearing. If a witness arrives earlier than this, the committee secretariat is to be contacted to confirm the location to which the witness is to be escorted by the PSS officer.
8. A witness, who is not a Commonwealth employee, may be issued with an unaccompanied pass in certain circumstances, for example, the person will be in the building on **committee business** for a period of time and may need access to different parts of the private areas for extended periods. The Queen's Terrace Café and other visitor amenities are available to all visitors and therefore access for meals is not in itself a reason to agree to a pass. In order for a pass to be issued, a member of the committee secretariat must complete an *Unaccompanied Visitor Pass Declaration* form at one of the security desks. Note: the form requires that the visitor be 'personally known' to the person completing the form. The Department of the Senate interpretation of this requirement is that the officer is cognisant or

aware of the person as by sight, experience, or report. It is expected that witnesses will always fall within this definition.

Commonwealth employees

9. Commonwealth employees who are attending hearings as a witness, observer or in another capacity, including those attending estimates hearings, may access Parliament House using any of the entrances. If a Commonwealth employee does not already have a Parliament House photographic pass or a Parliament House non-photographic Commonwealth pass, they will be issued with an unaccompanied pass to allow them to walk through the private areas of the building to access the committee room. In order for a pass to be issued:

   - the Commonwealth employee's name must be on the list of witnesses and attendees provide by the committee to security prior to the hearing; and
   - the Commonwealth employee must produce departmental photographic ID.

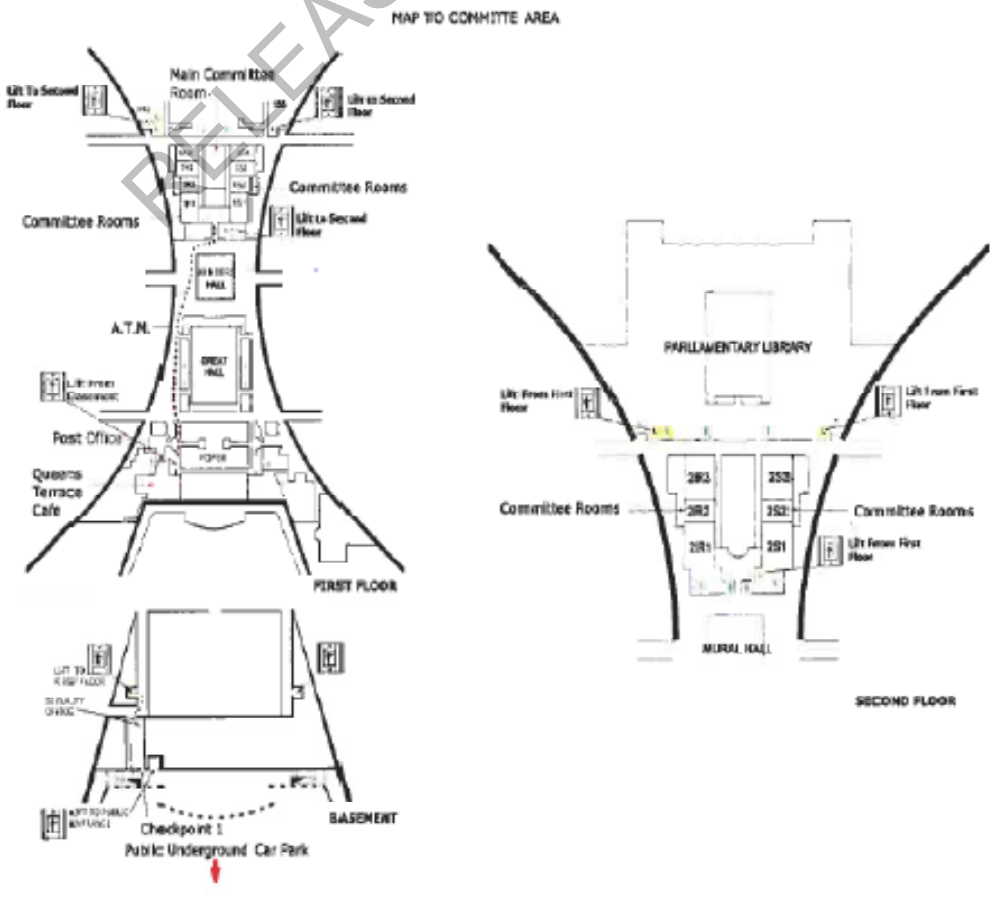
10. If the person's name is not on the list, ***contact the secr etariat to a scertain*** if the person should be added to the list. If required, Commonwealth employees will be provided with directions to make their own way to the Committee Room (see attached map). Alternatively they may request to be escorted to the Committee Room by a PSS officer. In these instances there may be a wait of up to 10 minutes whilst a patrol officer is called.

Last minute changes

11. Any last minute changes to committee timings or witness lists outside of business hours should be emailed to pssshiftadminstration@aph.gov.au and senate.hotline@aph.gov.au. In these cases telephone contact should be made with the 24/7 PSS Shift Administrator (0434 660 556) to advise of the changes.

Issues/Problems/Questions

12. The Deputy Usher of the Black Rod is available 24/7 to assist with any issues relating to Public Hearing security and access issues. Contact via mobile **0416 278 708** (if unavailable for any reason then please call the Usher of the Black Rod on 0409 158 942).



GOVERNMENT GUIDELINES FOR OFFICIAL WITNESSES BEFORE PARLIAMENTARY COMMITTEES AND RELATED MATTERS

Department of the Prime Minister and Cabinet

Canberra

February 2015

GOVERNMENT GUIDELINES FOR OFFICIAL WITNESSES BEFORE PARLIAMENTARY COMMITTEES AND RELATED MATTERS – FEBRUARY 2015

1. INTRODUCTION

1.1. Application and scope of the *Guidelines*

1.1.1. The *Guidelines* are designed to assist departmental and agency officials, statutory office holders and the staff of statutory authorities in their dealings with the parliament. The term 'official' is used throughout the *Guidelines*; it includes all persons employed by the Commonwealth who are undertaking duties within a Commonwealth department or agency (whether employed under the *Public Service Act 1999* or other legislation) and those in government business enterprises, corporations and companies. It is recognised, however, that the role and nature of some statutory office holders and their staff will require the selective application of these *Guidelines*, depending on the individual office holder's particular statutory functions and responsibilities (see section 2.9).

1.1.2. Contractors and consultants to departments and agencies and other individuals who are invited to give evidence to a parliamentary committee will also find these *Guidelines* useful.

1.1.3. While the *Guidelines* apply primarily to the preparation of submissions and the giving of oral evidence, parts 7 to 11 cover certain other matters related to the parliament. The *Guidelines* should also generally apply to submissions to and appearances before other public inquiries, such as royal commissions, and to the preparation and presentation of speeches by officials in their official capacity (for further information on the involvement of APS employees in public information initiatives, see *APS Values and Code of Conduct in Practice: a guide to official conduct for APS employees and agency heads* (section 1: Relationship with the Government and the Parliament), published by the Australian Public Service Commission.

1.2. Powers of the parliament

1.2.1. There are obligations and protections that govern anyone who volunteers or is required to provide information to the parliament. These obligations and protections flow primarily from the Constitution and the *Parliamentary Privileges Act 1987*, supplemented by privilege resolutions adopted by both the Senate and the House of Representatives and by the Standing Orders of both houses. While very rarely called upon, the parliament has the power to impose penalties for contempt (see sections 5.1 and 5.2 on parliamentary privilege and contempt of parliament below).

1.2.2. The *Guidelines* detail obligations and protections, providing references and links to primary documents.

1.3. Accountability

1.3.1. A fundamental element of Australia's system of parliamentary government is the accountability of the executive government to the parliament. Ministers are accountable to the parliament for the exercise of their ministerial authority and are responsible for the public advocacy and defence of government policy. Officials are accountable to ministers for the administration of government policy and programmes. Officials' accountability regularly takes the form of a requirement for them to provide full and accurate information to the parliament about the factual and technical background to policies and their administration.

1.3.2. The most common ways that officials will be required to answer directly to the parliament is through submissions to and appearances before committees. They may also be required to support ministers' accountability by, for example, drafting answers to parliamentary questions, advising a minister during the debate on legislation in the parliament or assisting a minister in responding to an order by one of the houses to produce documents.

1.3.3. The Guidelines are intended to assist in the freest possible flow of information to the parliament.

1.4. Types and powers of committees

1.4.1. Parliamentary committees may be established by the Senate, the House of Representatives, jointly by the two houses or by legislation. They have either an ongoing role (statutory and standing committees) or are established for a specific purpose (select committees).

1.4.2. Appearance as a witness before a Senate legislation committee conducting hearings into the Appropriation Bills (i.e. Senate estimates hearings) is the most common situation in which officials will appear before a parliamentary committee.

1.4.3. The functions and powers of parliamentary committees derive from enabling statutes, resolutions or the standing orders of the houses. Committees are generally established and empowered, among other things, to:

(a) seek submissions and documents and invite persons to give evidence in relation to matters under consideration

(b) summon witnesses and require the production of documents in relation to those matters.

1.4.4. The operations of joint statutory committees are governed by the relevant legislation (e.g. the *Public Accounts and Audit Committee Act 1951*, the *Public Works Committee Act 1969* and the *Australian Security Intelligence Organisation Act 1979*). Select committees are governed by the resolutions which establish them.

1.5. Types of witnesses

1.5.1. Officials can make submissions and appear as witnesses in an official capacity or in a personal capacity. Within these two broad categories there are distinctions that affect the clearance of submissions, selection of witnesses and preparation for appearances before committees. Depending on the nature of the inquiry that the committee is undertaking, the same officials can fall into either or both of these categories.

Official witnesses

1.5.2. Most often, officials will make submissions or appear before committees as representatives of their departments or agencies to explain the administration and implementation of government policies and programmes. For those witnesses, the Guidelines provide details of procedures for the clearance of submissions, choice of witnesses and consultation ahead of committee hearings.

1.5.3. There are circumstances, however, where those procedures would not be appropriate. On occasion witnesses may choose or be required to give personal accounts of events or conduct that they have witnessed. This situation can arise in the course of any committee hearing but will most often arise when a committee is inquiring into a particular event and the accounts of individual witnesses are required to allow the committee to ascertain the facts surrounding the event. In such cases, witnesses must not have requirements placed upon them that might deter them from giving evidence or cause them to feel constrained about the nature or content of their evidence. Part 3 of the *Guidelines* provides information about the approach to be adopted in cases where witnesses have had direct involvement in or have direct knowledge of events under inquiry.

1.5.4. It is, of course, possible that the same person may appear to explain the way that a particular programme is administered and to provide an account of an event that may have occurred in the administration of the programme.

Personal witnesses

1.5.5. Officials may also make submissions and appear as witnesses in a personal capacity. Guidance on contributions by officials appearing in a personal capacity is in Part 6.

2. PRELIMINARIES TO A COMMITTEE INQUIRY

2.1. Requests for written material and attendance

2.1.1. Without providing an exhaustive list, requests for submissions to or for the attendance of an official at a committee hearing in an official capacity may be made to one of the following:

(a) the relevant minister

(b) the relevant departmental secretary or agency head

(c) an official who previously appeared before the committee in relation to the matter being considered

(d) an official who has been identified by a committee as a person who could assist the committee in establishing facts about a particular event

2.1.2. There are exceptions to these formal requests e.g. for Senate estimates committees hearings.

2.1.3. Committees often advertise publicly for written submissions from interested persons and organisations.

2.1.4. A witness may first be invited to give evidence or produce documents, but a committee has the power to summon a witness if it considers circumstances warrant such an order. This is a rare occurrence, however, and departments are requested to bring any cases of an official receiving a summons to the attention of the Department of the Prime Minister and Cabinet (see Part 11 for contacts).

2.2. Preparation of submissions

2.2.1. If appropriate, departments and agencies making formal submissions should provide them in a written form; subsequent oral evidence would, if required, be based on the written submission but could also encompass other matters.

2.3. Matters of policy in submissions

2.3.1. Submissions:

(a) should not advocate, defend or canvass the merits of government policies (including policies of previous Commonwealth governments or state or foreign governments)

(b) may describe those policies and the administrative arrangements and procedures involved in implementing them

(c) should not identify considerations leading to government decisions or possible decisions unless those considerations have already been made public or the minister authorises the department to identify them

(d) may, after consultation with the minister, and especially when the government is encouraging public discussion of issues, set out policy options and list the main advantages and disadvantages, but should not reflect on the merits of any judgement the government may have made on those options or otherwise promote a particular policy viewpoint.

2.4. Clearance of submissions by minister

2.4.1. Submissions should be cleared to appropriate levels within the department or agency, and normally with the minister, in accordance with arrangements approved by the minister concerned.

2.4.2. Where a committee seeks comments on the merits of government policies, it is for ministers to respond by making written submissions, by appearing personally or arranging for ministers representing them to appear personally, or by inviting committees to submit questions on policy issues in writing.

2.4.3. Part 3 provides guidance in relation to officials giving evidence of personal knowledge of or involvement in events. Part 6 covers evidence given in a personal capacity.

2.5. Declining to make a submission

2.5.1. There may be occasions where a department is requested by a committee to make a submission and considers it inappropriate to do so e.g. where the issue being examined is administered by another department. In such cases it would be appropriate for the departmental secretary or agency head, or the official to whom a request was addressed, to write to the committee advising that the department does not intend to make a submission. If a committee persists with its request for a written submission, the department or agency may wish to seek the minister's views.

2.6. Requests for more time to prepare evidence

2.6.1. If the notice is considered insufficient, the minister (or the department on the minister's behalf) may ask a committee for more time to prepare evidence. The Senate resolutions provide for a witness to be given reasonable notice and an indication of the matters expected to be dealt with (Senate resolution 1.3).

2.7. Confidentiality of submissions and draft reports of committees

2.7.1. The release of submissions and the receipt of draft committee reports without the authority of a committee is prohibited by the *Parliamentary Privileges Act 1987* and may be judged as a contempt of the parliament. (See sections 5.1 and 5.2.)

2.7.2. It is sometimes necessary for the executive government to draw on contributions from various departments and agencies in order to provide accurate and comprehensive information. In such cases, draft submissions must be circulated between relevant agencies. The final submission may be made available to contributing departments and agencies at the time the submission is sent to the committee. Once forwarded to a committee, however, written submissions are confidential until the committee authorises their release or publication (see Senate Standing Order 37, House of Representatives Standing Order 242). Material in submissions may be used for other purposes, but the actual submission must not be published without the committee's approval.

2.7.3. Similarly, a draft report of a committee prepared for its own consideration is the property of the committee and must not be received or dealt with except with the committee's authority. If an official receives a draft report, it should be returned promptly to the committee through the committee secretary, either directly or by returning it to the individual who provided it, who should be informed of the requirement to return it.

2.8. Choice of witnesses

2.8.1. A minister may delegate to a departmental secretary or agency head the responsibility for deciding the officials most appropriate to provide the information sought by a committee. It is essential that the officials selected have sufficient knowledge and authority to be able to satisfy the committee's requirements. Where the matter before the committee involves the interests of several departments or agencies, it would be appropriate to inform the committee secretary (after consulting the other departments or agencies) so the committee can arrange for other witnesses to appear if required.

2.8.2. Where a committee specifically requests an official to appear and the official is unavailable or the department considers it more appropriate that another official appear, it is desirable to advise the committee in advance and indicate the reason e.g. that another official or another department is now responsible for the matter in question. That course is likely to be inappropriate if the specified official has direct knowledge of an event under inquiry (see paragraph 1.5.3 and Part 3).

2.9. Official witnesses from statutory authorities

2.9.1. Both Houses regard statutory office holders and the staff of statutory authorities as accountable to the parliament, regardless of the level of ministerial control of the authority. Most of them should comply with the usual rules about canvassing the merits or otherwise of policies. However, a number of statutory office holders and authorities, particularly those

with statutory responsibilities for promoting good practice in particular fields or protecting the interests of individuals or groups, may provide comment to committees on policies relevant to their areas of responsibility to the extent that the functions of their office properly permit that role. In doing so, they should take care to avoid taking partisan positions.

2.10. How to prepare as a witness

2.10.1. All witnesses should be thoroughly prepared for hearings. Preparation should include ensuring familiarity with probable lines of questioning by discussion with the committee secretariat or by examining Hansard (for parliamentary questions and previous, related inquiries) and other sources, including the media. Officials who have not previously attended committee hearings should be briefed on the requirements and should consider training offered by the Australian Public Service Commission and by the Departments of the Senate and the House of Representatives. Senior officials should satisfy themselves, as far as possible, that all witnesses are capable of giving evidence in a professional manner.

2.11. Senate and House of Representative resolutions

2.11.1. All officials appearing before Senate committees should also make themselves aware of the Senate resolutions relating to the rights of witnesses (Senate resolutions 1.1-1.18) and matters which may be treated as a contempt of the Parliament (Senate resolutions 3 and 6.1-6.16). Officials appearing before the House of Representatives Committee of Privileges and Members' Interests should be aware of the resolution adopted by the House on 25 November 2009 in relation to the protection of witnesses.

2.12. Consultation with ministers ahead of hearings

2.12.1. The extent of consultation with ministers when preparing for hearings may vary depending on the committee and capacity in which a witness is appearing. For Senate estimates committee hearings, it is usual for officials to provide the minister, or the minister's representative in the Senate, with a list of significant matters on which the department or agency is likely to be questioned and with copies of briefing if the minister wishes. Regardless of the type of committee, witnesses should alert the minister before a hearing if it is likely that a claim of public interest immunity (PII) will be required (see sections 4.4 to 4.11). In most cases, ministers should also be given advance notice by officials of likely requests for the hearing of evidence in camera (see section 4.12), although official witnesses who will give personal accounts of an event (see Part 3) are under no obligation to indicate that they intend to request an in camera hearing.

3. OFFICIALS GIVING EVIDENCE OF EVENTS OR CONDUCT

3.1.1. Parliamentary committees are occasionally established to inquire into particular events. Officials whose personal accounts of events or conduct are relevant to the inquiry should prepare themselves for the hearing in much the same way as officials appearing in a representative capacity (see section 2.10) by, for example, considering what questions might be asked, reviewing files and contemporaneous notes about the event and attempting to recall their experiences as exactly as possible. While these witnesses may choose to advise the minister or the departmental or agency executive before making a submission or attending a hearing, they should not be required to do so, nor should they be required to clear the content of their submissions or intended evidence.

3.1.2. An official who is appearing in relation to a particular event should, like all official witnesses, be aware that they might need to restrict the evidence they give (see section 4.2). It is possible, for example, that certain information relevant to an inquiry should properly remain confidential (see sections 4.4 to 4.11). In this situation, the official should discuss the proposed evidence with senior officials familiar with the subject matter so as to ascertain whether the minister should be given an opportunity to consider making a PII claim in respect of the information.

3.1.3. Officials giving evidence about particular events are entitled to request that their submissions and oral evidence remain confidential. This may be appropriate if the subject matter of the inquiry or the proposed evidence is inherently confidential (e.g. if it is related to defence capabilities and a PII claim is not being made), if the evidence would be damaging to personal reputations, or if the witness does not wish his or her identity to be made public.

3.1.4. Officials who intend to give evidence about their personal experiences or observations should be careful, if they discuss their intended evidence with other officials or potential witnesses, to avoid creating the perception that they are trying to influence those other witnesses or being influenced by them.

3.1.5. As indicated in paragraph 1.5.4, it is possible for the same official to be required to give evidence to the same inquiry both to explain the way a programme is administered and to provide an account of an event that might have occurred in the administration of the programme. In such cases, the witness needs to follow the appropriate clearance procedures for evidence relating to his or her evidence as a representative of the department or agency, while at the same time avoiding inappropriate processes in preparing to give evidence about his or her personal knowledge of the event or conduct in question.

4. CONDUCT OF HEARINGS BY COMMITTEES

4.1. General Principles

4.1.1. As indicated above (paragraph 1.3.3), it is intended, subject to the application of certain necessary principles, that there be the freest flow of information between the public sector and the parliament. To that end, officials should be open with committees and if unable or unwilling to answer questions or provide information should say so and give reasons. It is also incumbent upon officials to treat parliamentary committee members with respect and courtesy. Officials who consider that a question or statement made by a committee member reflects unfairly on them can seek assistance from either the minister or the committee chair. (See also section 5.7 on Right of Reply.)

4.2. Limitations on officials' evidence

4.2.1. There are three main areas in which officials need to be alert to the possibility that they may not be able to provide committees with all the information sought or may need to request restrictions on the provision of such information. These are:

(a) matters of policy

(b) material that may be the subject of a PII claim

(c) information where in camera evidence is desirable.

4.3. Matters of policy in oral evidence

4.3.1. It is not the role of an official witness to give opinions on matters of policy. It is the role of an official witness to speak to any written submission provided to the committee and to provide, in answer to questions, factual and background material to assist the understanding of the issues involved. The detailed rules applying to written submissions also apply to oral evidence. Not all restrictions necessarily apply to statutory officers (see section 2.9).

4.3.2. The Senate resolutions (see section 2.11) provide that, "an officer of a department of the Commonwealth or of a State shall not be asked to give opinions on matters of policy, and shall be given reasonable opportunity to refer questions asked of the officer to superior officers or to a Minister" (resolution 1.16).

4.3.3. Senate resolutions also prescribe the procedure by which a witness may object to answering "any question put to the witness" on "any ground" (resolution 1.10). This would include the ground that the question requires the witness to give an opinion on a matter of policy contrary to Senate resolution 1.16. In such a situation an official may ask the person chairing the committee to consider whether questions which fall within the parameters of policy positions are in order.

4.3.4. If an official witness is directed to answer a question that goes to the merits of government policy and has not previously cleared the matter with the minister, the official should ask to be allowed to defer the answer until such clearance is obtained. Alternatively, it may be appropriate for the witness to refer to the written material provided to the committee and offer, if the committee wishes, to seek elaboration from the minister or to request that the answer to a particular question be reserved for submission in writing.

4.4. Public interest immunity

4.4.1. While the parliament has the power to require the giving of evidence and the production of documents, it has been acknowledged by the parliament that the government holds some information which, in the public interest, should not be disclosed.

4.5. Claims to be made by ministers

4.5.1. Only ministers, or in limited circumstances statutory office holders, can claim that information should be withheld from disclosure on grounds of PII. However, committees, and especially Senate estimates committees, receive most of their evidence from officials, and it is officials who are most likely in the first instance to be asked to provide information or documents that might be the subject of a PII claim. Officials need in particular to be familiar with the Senate Order of 13 May 2009 on PII claims (see Attachment A).

4.5.2. It is important that the public interest is not inadvertently damaged as a result of information or documents being released without a proper assessment of the possible consequences. Officials who consider that they have been asked to provide information or a document (either by way of a submission or in a hearing) that might properly be the subject of a PII claim should either:

(a) advise the committee of the grounds for that belief and specify the damage that might be done to the public interest if the information or document were disclosed; or

(b) ask to take the question on notice to allow discussion with the minister. A committee would be expected to allow an official or minister at the table to ascertain the portfolio minister's views on the possible release of the information or document or seek further advice on whether a PII claim was warranted.

4.5.3. If a minister concludes that it would not be in the public interest to disclose the information or document, a statement should be provided to the committee setting out the ground for that conclusion and specifying the harm to the public interest that could result from the disclosure of the information or document.

4.5.4. Where practicable, decisions to claim PII should take place before hearings, so that the necessary documentation can be produced at the time. The normal means of claiming PII is by way of a letter from the minister to the committee chair. The Department of the

Prime Minister and Cabinet should be consulted on the appropriateness of the claim in the particular circumstances and the method of making the claim.

4.5.5. Before making a claim of PII, a minister or, in appropriate circumstances, a statutory office holder, might explore with a committee the possibility of providing the information in a form or under conditions which would not give rise to a need for the claim (including in camera, see section 4.12).

4.6. Grounds for a PII claim

4.6.1. There are several generally accepted grounds on which a minister or, in appropriate circumstances, a statutory office holder, may rely when claiming PII. For example, PII claims may be made in relation to information and documents the disclosure of which would, or might reasonably be expected to:

(a) damage Australia's national security, defence or international relations

(b) damage relations between the Commonwealth and the States

(c) disclose the deliberations of Cabinet (other than a decision that has been officially published)

(d) prejudice the investigation of a possible breach of the law or the enforcement of the law in a particular instance

(e) disclose, or enable a person to ascertain, the existence or identity of a confidential source or information, in relation to the enforcement or administration of the law

(f) endanger the life or physical safety of any person

(g) prejudice the fair trial of a person or the impartial adjudication of a particular case

(h) disclose lawful methods or procedures for preventing, detecting, investigating, or dealing with matters arising out of breaches or evasions of the law, the disclosure of which would, or would be reasonably likely to, prejudice the effectiveness of those methods or procedures

(i) prejudice the maintenance or enforcement of lawful methods for the protection of public safety.

4.6.2. The Senate Order of 13 May 2009 made it clear that committees will not accept a claim for public interest immunity based only on the ground that the document in question has not been published, is confidential, or is advice to or internal deliberations of government; a minister must also specify the harm to the public interest that may result from the disclosure of the information or document that has been requested. Further advice on the Senate Order and PII claims is at Attachment A.

4.6.3. If a minister concludes that a PII claim would more appropriately be made by a statutory office holder because of the independence of that office from ministerial direction or control, the minister should inform the committee of that conclusion. A statutory office holder might, for example, consider the disclosure of particular information would be likely to have such a substantial adverse effect on the proper and efficient conduct of the operations of his or her agency that it would be contrary to the public interest to disclose that information.

4.7. Classified documents

4.7.1. Documents, and oral information relating to documents, having a national security classification of 'confidential', 'secret' or 'top secret' would normally be within one of the categories in paragraph 4.6.1, particularly sub-paragraph 4.6.1(a). If, however, a document bearing such a classification is to be provided to a committee, an official should seek declassification of the document in accordance with relevant government policies. (Note that it does not follow that documents without a security classification may not be the subject of a PII claim. Nor does it follow that classified documents may not in any circumstances be produced. Each document should be considered on its merits and, where classified, in consultation with the originator.)

4.8. Legal professional privilege and legal advice

4.8.1. Legal advisers owe a duty to their clients not to disclose the existence or content of any advice. It would therefore be inappropriate for any official who has provided legal advice to government, who has obtained advice from an external lawyer or who possesses legal advice provided to another agency, to disclose that advice. All decisions about disclosure of legal advice reside with the minister or agency who sought and received that advice. The Attorney-General or the Attorney-General's Department must always be consulted about disclosure of constitutional, international and national security legal advice.

4.8.2. If asked by a committee, it will generally be appropriate for an official to disclose whether legal advice had been sought and obtained on a particular issue and, if asked, who provided the advice and when it was provided, unless there are compelling reasons to keep that information confidential. Where an official has been asked a question about the content of legal advice, it may be appropriate to advise the committee that such information might properly be subject to a public interest immunity claim and refer the question of disclosure to the responsible minister as outlined in paragraph 4.5.2.

4.8.3. While it has not been the practice for the government's legal advisers to provide advice to parliamentary committees, situations may arise during a hearing where a committee asks an official a question which amounts, in effect, to a request for legal advice. Officials should provide committees with such information as they consider appropriate, consistent with the general understanding that the Government's legal advisers do not provide or disclose legal advice to the parliament, and consistent more generally with these Guidelines.

(It may be, for example, that officials are in a position to explain in general terms the intended operation of provisions of Acts or legal processes, particularly where this reflects the settled government view on the matter.)

4.9. Freedom of information (FOI) legislation

4.9.1. The *Freedom of Information Act 1982* (FOI Act) establishes minimum standards of disclosure of documents held by the Commonwealth. The FOI Act has no application as such to parliamentary inquiries, but it may be considered a general guide to the grounds on which a parliamentary inquiry may reasonably be asked not to press for particular information. The converse also applies. Any material which would be, or has been, released under the FOI Act should (with the knowledge of the minister in sensitive cases or where the minister has a particular interest or has been involved) be produced or given to a parliamentary committee, on request. However, officials should bear in mind that, because of the Executive's primary accountability to the parliament, the public interest in providing information to a parliamentary inquiry may be greater than the public interest in releasing information under the FOI Act. In addition, the ability to provide information and documents to the parliament on a confidential basis might provide scope to release information that would not be appropriate for release under the FOI Act (see section 4.12). For a more detailed understanding of the exemption provisions, refer to the FOI Act and separate guidelines on its operation issued by the Australian Information Commissioner and the FOI Guidance Notes issued by PM&C (references and links to these documents are in Part 12).

4.10. Commercial-in-confidence material

4.10.1. There is no general basis to refuse disclosure of commercial information to the parliament, even if it has been marked 'commercial-in-confidence'. The appropriate balance between the interests of accountability (i.e. the public interest in disclosing the information) and appropriate protection of commercial interests (i.e. the public interest in the information remaining confidential) should be assessed in each case.

4.10.2. A Senate order, adopted on 30 October 2003, states that, 'the Senate and Senate committees shall not entertain any claim to withhold information from the Senate or a committee on the grounds that it is commercial-in-confidence, unless the claim is made by a minister and is accompanied by a statement setting out the basis for the claim, including a statement of any commercial harm that may result from the disclosure of the information.'

4.10.3. As a general guide, it is inappropriate to disclose information which could disadvantage a contractor and advantage competitors in their business operations. Further information about the circumstances in which a PII claim based on commercial-in-confidence information might legitimately be made, and about information that would normally be disclosed, is at Attachment B.

4.10.4. A department or agency receiving commercial information on the basis of undertakings of confidentiality does not automatically preclude release of that information to

the parliament. Agencies should consider where, on balance, the public interest lies as part of their advice to the minister and may wish to seek the views of any person or organisation to whom undertakings were given about the possible release of the document.

4.10.5. In most cases, the sensitivity of commercial-in-confidence material diminishes with time and this should be taken into account when assessing the public interest balance.

4.10.6. As with any other PII claim, a claim around commercial-in-confidence information should be supported by reference to the particular detriment that could flow from release of the information.

4.11. Secrecy provisions in legislation

4.11.1. Some Commonwealth legislation contains secrecy provisions that protect certain information from disclosure except to specified persons or in specified situations. Examples include s.37(1) of the *Inspector-General of Taxation Act 2003*, which protects information relating to a taxpayer's affairs; s.86-2 of the *Aged Care Act 1997* which protects information obtained under or for the purposes of that Act; and s.187(1) of the *Gene Technology Act 2000* which limits the provision of commercial-in-confidence information.

4.11.2. The existence of secrecy provisions in legislation does not provide an automatic exemption from providing information to the parliament unless it is clear from the provision that a restriction has been placed on providing information to a committee or a House of the parliament (section 37 of the *Auditor-General Act 1997* is an example). The fact that the parliament has included secrecy provisions in legislation suggests, however, that an official may be able to put to a committee a satisfactory case for not providing requested information, at least in public hearings. If the official's case is not accepted by the committee and the official remains concerned about providing the information, it would be open to the responsible minister to make a PII claim in the manner outlined in sections 4.4 to 4.10.

4.11.3. In some instances it might be possible to meet a committee's request by removing information that identifies individuals.

4.11.4. Officials may wish to seek legal advice when a request for information covered by secrecy provisions is pressed by a committee.

4.12. In camera evidence

4.12.1. Witnesses may seek a committee's agreement to give evidence in a private session (i.e. in camera). Senate estimates committees, however, must conduct hearings in public.

4.12.2. It would be unusual for an official witness to seek to give evidence in camera, but it may be necessary in situations where:

(a) a case could be made for a PII claim but the minister considers, on balance, that the public interest lies in making information available to the committee;

(b) similar or identical evidence has previously been given in camera to other hearings of the committee or other committees of the parliament and has not been made public.

4.12.3. Requests for an in camera hearing would normally be made by the minister or by a witness after consultation with the minister and departmental secretary or agency head. Such consultation might not be appropriate, however, in the case of officials giving evidence of events or conduct, as described in Part 3.

4.12.4. It is important to be aware that committees (or the Senate or House of Representatives) are able to decide that evidence taken in camera or provided in confidential submissions should be published. Committees would usually inform a witness before publication, and possibly seek concurrence, but there is no requirement for that to occur.

4.12.5. If a committee seeks an official witness's concurrence to publish in camera evidence, the witness should ask the committee for time to allow him or her to consult the minister or the departmental secretary or agency head (noting that this may not be necessary if the witness is appearing in a personal capacity – see Part 6).

4.13. Requests for evidence 'off the record'

4.13.1. There is no category of 'off the record' provision of information to a committee and officials should not offer to brief committees or members in this way. In the event that an official is asked to provide information to members of a committee 'off the record' or in any manner that would not appear to be covered by parliamentary privilege, the official should request a postponement until the minister can be consulted, unless the possibility has been clearly foreshadowed with the minister and the official has been authorised to provide the information.

4.13.2. Some committees, such as the Joint Committee on Public Accounts and Audit, frequently hold relatively informal, or roundtable, committee hearings. These hearings are usually recorded by Hansard and are in all cases covered by parliamentary privilege.

4.14. Qualifying evidence

4.14.1. During hearings, committees may seek information which could properly be given, but where officials are unsure of the facts or do not have the information to hand. In such cases, witnesses, if they choose not to take the question on notice, should qualify their answers as necessary so as to avoid misleading the committee and, if appropriate, undertake to provide additional or clarifying information. It is particularly important to submit such further material promptly.

4.15. Taking questions on notice

4.15.1. While it is appropriate to take questions on notice if the information sought is not available or incomplete, officials should not take questions on notice as a way of avoiding further questions during the hearing. If officials have the information, but consider it necessary to consult the minister before providing it, they should state that as a reason for not answering rather than creating the impression that the information is not available.

4.16. Written questions and questions taken on notice

4.16.1. Where a committee asks written questions, written replies should be provided through the committee secretary. It is common practice at Senate estimates committee hearings for questions to be taken on notice. Responses should be provided promptly to the minister for clearance so that answers can be lodged with the committee by its deadline. Where answers cannot be provided by the deadline, the committee should be advised when responses are expected to be available.

4.16.2. When the interests of several departments are involved, adequate consultation should take place in preparing material.

4.17. Questions about other departments' responsibilities

4.17.1. It is important that witnesses take care not to intrude on responsibilities of other departments and agencies (see also paragraph 2.7.2). Where a question falls within the administration of another department or agency, an official may request that it be directed to that department or agency or be deferred until that department or agency is consulted.

5. PROTECTION OF SUBMISSIONS AND WITNESSES

5.1. Parliamentary privilege

5.1.1. The act of submitting a document to a parliamentary committee is protected by parliamentary privilege (subsection 16(2)(b) of the *Parliamentary Privileges Act 1987*). Any publication of the submission other than to the committee, however, is protected by parliamentary privilege only if that publication takes place by or pursuant to the order of the committee, in which case the content of the document is also protected (subsection 16(2)(d) of the Act). The unauthorised disclosure of a document or evidence submitted to a parliamentary committee (that is, a disclosure not authorised by the committee or the House concerned) may be treated as a criminal offence under section 13 of the Act or as a contempt (Senate resolution 6.16.). (See also section 2.7.)

5.1.2. The protection of parliamentary privilege means that a person cannot be sued or prosecuted in respect of the act or the material protected, nor can that act or material be used against a person in legal proceedings.

5.2. Contempt of the parliament

5.2.1. Officials need to be aware that the *Parliamentary Privileges Act 1987* and Senate Resolutions have defined offences against a House. Each House has the power to declare an act to be a contempt of the House and to punish such an act.

5.2.2. The *Parliamentary Privileges Act 1987* creates the following offences in relation to attempts to improperly influence a person about evidence given or to be given:

(a) a person shall not, by fraud, intimidation, force or threat, by the offer or promise of any inducement or benefit, or by other improper means, influence another person in respect of any evidence given or to be given before a House or a committee, or induce another person to refrain from giving any such evidence (subsection 12(1));

(b) a person shall not inflict any penalty or injury upon any person, or deprive any person of any benefit, on account of the giving or proposed giving of any evidence, or any evidence given or to be given, before a House or a committee (subsection 12(2)).

5.2.3. As indicated in paragraph 5.1.1 above, section 13 of the *Parliamentary Privileges Act 1987* creates an offence in relation to the disclosure of submissions or evidence without the authority of the parliament or a committee.

5.2.4. The giving of any evidence that a witness knows to be false or misleading is also a contempt (see Senate resolution 6(12)).

5.3. Self incrimination

5.3.1. In general, a witness cannot refuse to answer a question or produce documents on the ground that the answer to the question or the production of documents might incriminate the witness. The exceptions to this are witnesses appearing before the Joint Committee of Public Accounts and Audit or the Parliamentary Standing Committee on Public Works, who are permitted to refuse to give evidence on grounds on which a witness in court is able, including self incrimination.

5.3.2. If concerned about self incrimination, a witness may request that the committee take the evidence in camera (see section 4.12).

5.4. Access to counsel

5.4.1. A witness may apply to have assistance from counsel in the course of a hearing. In considering such an application, a committee shall have regard to the need for the witness to be accompanied by counsel to ensure the proper protection of the witness. If an application is not granted, the witness shall be notified of reasons for that decision (see Senate resolution 1.14). If an application is granted, the witness shall be given reasonable opportunity to consult counsel during a committee hearing (see Senate resolution 1.15 and p 693 of *House of Representatives Practice* – references and links in Part 12).

5.4.2. In normal circumstances officials should not need counsel when appearing before parliamentary committees. Should the need arise, however, the Attorney-General's Department should be consulted.

5.5. Publication of evidence

5.5.1. Evidence provided to committees in a public hearing is normally published in the form of a Hansard record.

5.5.2. Authority for the publication of evidence is vested in committees by virtue of ss.2(2) of the *Parliamentary Papers Act 1908*. Evidence taken in camera is confidential and its publication without a committee's consent constitutes a contempt (see s.13 of the *Parliamentary Privileges Act 1987* and Senate resolution 6.16.).

5.6. Correction or clarification of evidence

5.6.1. Witnesses will receive transcripts of their evidence in the days following their appearance. The transcript should be examined promptly to establish whether any evidence needs to be corrected or clarified. On occasions, a witness may become aware of the need for correction or clarification before the receipt of the transcript or, in the case of a written submission, before the commencement of hearings.

5.6.2. Once the need to provide a committee with revised information has been established, it is most important that the committee receive that revised information at the earliest

opportunity. In the case of officials who made submissions or appeared as witnesses in relation to the administration and implementation of government policy (but not necessarily those covered by Part 3), the departmental secretary or agency head (or senior official who represented the secretary at the hearing) should be informed that revised information is to be provided. Depending on the nature of the correction, it may also be appropriate to inform the minister. Officials need to keep in mind that, while their evidence remains uncorrected or unclarified they are vulnerable to allegations that they have misled a committee.

5.6.3. Supplementary information for a committee should be forwarded to the committee secretary. If uncertain of the most appropriate way to provide a committee with additional or corrected information, officials should seek the guidance of the committee secretary.

5.7. Right of reply

5.7.1. Where evidence taken by a committee reflects adversely on an official, the committee shall provide reasonable opportunity for the official to have access to that evidence and to respond to that evidence by written submission and appearance before the committee (Senate resolution 1(13)).

5.7.2. Officials have the same right as other citizens who have been adversely referred to in a House of the parliament (see Senate resolution 5 and House of Representatives resolution adopted on 27 August 1997 – pp 774-6 of *House of Representatives Practice*). They may make a submission to the President of the Senate or to the Speaker of the House of Representatives requesting that a response be published, and the relevant presiding officer may refer such a submission to the relevant Privileges Committee. The procedures of each House then provide for scrutiny of the submission and for the possibility of it being incorporated in Hansard or ordered to be published.

5.7.3. Officials proposing to exercise their right of reply should inform their departmental secretary or agency head.

6. APPEARANCE IN A PERSONAL CAPACITY

6.1.1. Nothing in these guidelines prevents officials from making submissions or appearing before parliamentary committees in their personal capacity, and the *Parliamentary Privileges Act 1987* makes it clear that an agency has no power to prevent an official from doing so. An official proposing to give evidence in a personal capacity should consult the *APS Values and Code of Conduct in Practice: a guide to official conduct for APS employees and agency heads* (section 1: Relationship with the Government and the Parliament), published by the Australian Public Service Commission. Individual agencies may also have developed advice for their own staff on these matters.

6.1.2. An official giving evidence in a personal capacity might do so in relation to matters entirely unrelated to his or her current or recent responsibilities e.g. an official in the Attorney-General's Department putting forward personal observations or suggestions on aged care accommodation. It would be a matter completely for that official to decide whether to inform either a senior official in his or her own department or anyone in the department responsible for aged care policy. The official should, of course, seek leave to attend the hearing, if necessary.

6.1.3. There is no intention for there to be any restriction arising from these Guidelines on officials appearing before parliamentary committees in their 'personal' capacity. An official so called, however, should pay heed to the guidelines relating to public comment contained in the *APS Values and Code of Conduct in Practice*. As those guidelines emphasise, it is particularly important for senior officials to give careful consideration to the impact, by virtue of their positions, of any comment they might make. Indeed heads of agencies and other very senior officials need to consider carefully whether, in particular cases, it is possible for them realistically to claim to appear in a 'personal' rather than an 'official' capacity, particularly if they are likely to be asked to comment on matters which fall within or impinge on their area of responsibility. An official who is appearing before a committee in a personal capacity should make it clear to the committee that the officer's appearance is not in an official capacity.

6.1.4. An official contemplating giving evidence in a personal capacity in these circumstances might consider discussing his or her intentions with the departmental executive or agency head or other senior officials, as the views that he or she wishes to put forward might be covered in the agency's submission or the evidence of official witnesses. There is, however, no obligation on the official to do so.

6.1.5. An official who gives evidence in his or her personal capacity is protected by parliamentary privilege and must not be penalised for giving that evidence (see section 5.1).

7. PARTY COMMITTEES

7.1. General issues

7.1.1. Officials may be invited to attend party committees, both government and non-government to, for instance, explain proposed legislation.

7.1.2. Requests for briefing from any party committee should be directed to the minister concerned. It is also open to a minister to initiate proposals for briefing of committees where the minister considers that to be desirable.

7.1.3. Officials will not be expected or authorised to express opinions on matters of a policy or party political nature.

7.1.4. Unlike committees of the parliament, party committees do not have the powers or privileges of parliamentary committees, so officials appearing before them do not have the protection afforded to witnesses appearing before parliamentary committees. Party committee hearings are generally held in private.

7.1.5. Where the minister does not attend the committee proceedings, officials should keep the minister informed of the nature of the discussions and of any matters the officials could not resolve to the committee's satisfaction.

8. REQUESTS FOR INFORMATION FROM NON-GOVERNMENT PARTIES AND MEMBERS OF PARLIAMENT

8.1. Rules at times other than during the caretaker period

8.1.1. Requests for information from members of parliament are usually made to the minister, but direct approaches to officials for routine factual information, particularly on constituency matters, are also traditional and appropriate.

8.1.2. Depending on the nature or significance of a request, an official may judge it appropriate to inform the minister and departmental secretary or agency head of the request and response. Ministers should be informed of any matter which is likely to involve them.

8.1.3. A request should also be referred to the minister if it seeks an expression of opinion on government policy or alternative policies, or would raise other issues of a sensitive nature, or where answering would necessitate the use of substantial resources of the department or agency.

8.1.4. When a request is for readily available factual information, the information should be provided.

8.1.5. Care should be taken to avoid unlawful disclosure of information, for example, unauthorised disclosure of information that is classified or otherwise confidential information such as where a breach of personal privacy or commercial confidentiality could be involved.

8.2. Requests from shadow ministers

8.2.1. Requests from shadow ministers for briefing by officials would normally be made through the appropriate minister and, where this is not the case, the minister should be informed. If the minister agrees to the briefing, it would be normal for him or her to set conditions on the briefing, such as the officials to attend, matters to be covered and whether a ministerial adviser should also be present. These conditions are matters for negotiation between the minister and shadow minister or their offices.

8.2.2. With regard to the substance of such a briefing, officials will not be authorised to discuss advice given to government, such as in Cabinet documents, or the rationale for government policies, or to give opinions on matters of a party political nature. Officials should limit discussions to administrative and operational matters and observe the general restrictions relating to classified or PII material. If these latter matters arise, officials should suggest that they be raised with the minister.

8.2.3. Where a ministerial adviser is not present, it would be usual for officials to advise the minister of the nature of matters discussed with the shadow minister.

8.3. Special rules for pre-election consultation with officials during the caretaker period prior to an election

8.3.1. On 5 June 1987 the government tabled in the parliament specific guidelines relating to consultation by the Opposition with officials during the pre-election period. These guidelines, which are almost identical to the guidelines first tabled on 9 December 1976, are as follows:

(a) The pre-election period is to date from three months prior to the expiry of the House of Representatives or the date of announcement of the House of Representatives election, whichever date comes first. It does not apply in respect of Senate only elections.

(b) Under the special arrangement, shadow ministers may be given approval to have discussions with appropriate officials of government departments. Party leaders may have other members of parliament or their staff members present. A departmental secretary may have other officials present.

(c) The procedure will be initiated by the relevant Opposition spokesperson making a request of the minister concerned, who is to notify the Prime Minister of the request and whether it has been agreed.

(d) The discussions will be at the initiative of the non-government parties, not officials. Officials will inform their ministers when the discussions are taking place.

(e) Officials will not be authorised to discuss government policies or to give opinions on matters of a party political nature. The subject matter of the discussions would relate to the machinery of government and administration. The discussions may include the administrative and technical practicalities and procedures involved in implementation of policies proposed by the non-government parties. If the Opposition representatives raise matters which, in the judgement of the officials, call for comment on government policies or expressions of opinion on alternative policies, the officials should suggest that the matter be raised with the minister.

(f) The detailed substance of the discussions will be confidential but ministers will be entitled to seek from officials general information on whether the discussions kept within the agreed purposes.

9. APPEARANCES BEFORE THE BAR OF A HOUSE OF PARLIAMENT

9.1.1. Only in exceptional circumstances would an official be summoned to the bar of a House of the parliament and each case would need individual consideration.

9.1.2. As a general rule, it would be appropriate for these guidelines to be followed insofar as they apply to the particular circumstances.

10. REQUESTS RELATING TO INQUIRIES OF STATE AND TERRITORY PARLIAMENTS

10.1.1. Commonwealth officials may receive a request to appear before or make a submission to a state or territory parliamentary inquiry. In considering the appropriate response, officials should be aware that it would be rare for Commonwealth officials to participate in such inquiries.

10.1.2. However, there may be cases where, after consulting the minister about the request, it is considered to be in the Commonwealth's interests to participate. Officials should not participate in any state or territory parliamentary inquiry without consulting the minister.

10.1.3. Where additional guidance is required regarding appearances before state or territory inquiries or if an official is summoned to appear at such an inquiry, advice should be sought from the Department of the Prime Minister and Cabinet, the Attorney-General's Department, and the Australian Government Solicitor or the agency's legal service provider[1].

[1] Use of a legal service provider must be consistent with the Legal Service Directions issued by the Attorney-General under the *Judiciary Act 1903*.

11. USEFUL CONTACT NUMBERS

11.1.1. The following contact numbers are provided for use where these guidelines suggest consultation with the Department of the Prime Minister and Cabinet, the Attorney-General's Department or the Australian Government Solicitor:

(a) Department of the Prime Minister and Cabinet:

Assistant Secretary Parliamentary and Government Branch	phone: s22
First Assistant Secretary Government Division	phone: (s22

(b) Attorney-General's Department:

General Counsel (Constitutional) Office of Constitutional Law	phone: s22 OCL@ag.gov.au

(c) Australian Government Solicitor:

Australian Government Solicitor	phone: s22
Office of General Counsel	phone: s22

12. REFERENCES

12.1.1. The following material is available to assist officials in their contact with parliament:

(a) Odgers' *Australian Senate Practice*, 13th Edition, Canberra, 2012.

(b) *House of Representatives Practice*, Sixth Edition, Canberra, 2012.

(c) *Procedures to be observed by Senate Committees for the Protection of Witnesses*. Department of the Senate.

(d) *Procedures for the protection of witnesses before the Committee of Privileges and Members' Interests*. Resolution adopted by the House of Representatives on 25 November 2009.

(e) *Standing Orders and other orders of the Senate*, July 2014.

(f) *House of Representatives Standing and Sessional Orders* (and Resolutions) as at 14 November 2013.

(g) *Appearing Before Parliamentary Committees*, Legal Practice Briefing No. 29, 1996, Australian Government Solicitor.

(h) *How to make a submission to a Senate or Joint Committee inquiry*. Department of the Senate.

(i) *Preparing a submission to a Parliamentary Committee Inquiry*. Department of the House of Representatives, 2011.

(j) *Notes for the Guidance of Witnesses Appearing before Senate Committees*. Department of the Senate.

(k) *Appearing as a witness at a Parliamentary committee hearing*. Department of the House of Representatives, 2011.

(l) *Outline of the Inquiry Process*. Department of the House of Representatives, 2011.

(m) *Parliamentary Privileges Act 1987*

(n) *Public Accounts and Audit Committee Act 1951*

(o) *Public Works Committee Act 1969*

(p) *APS Values and Code of Conduct in practice*. Australian Public Service Commission, 2009.

(q) Reports of the Senate Committee of Privileges, including the Committee of Privileges *1966-96 History, Practice and Procedures (76th Report)*.

(r) Reports of the House of Representatives Committee of Privileges and Members' Interests.

(s) Guidelines on exemption provisions of the *Freedom of Information Act 1982*. Australian Information Commissioner 2011.

(t) FOI Guidance Notes. Department of the Prime Minister and Cabinet, July 2011.

ATTACHMENT A

Claims of public interest immunity

See also sections 4.4 to 4.11 in the *Guidelines*

On 13 May 2009, the Senate passed an Order setting out the process for making claims of public interest immunity (PII) in committee proceedings. A copy of the order is attached (Attachment A1).

2. The Senate Procedure Committee reviewed the operation of the Order in August 2009. A copy of the Procedure Committee's report can be downloaded from the Parliament of Australia website.

3. Officials who are expected to appear at estimates and other parliamentary committee hearings need to be familiar with the requirements of the Order and the grounds for claiming public interest immunity as set out in the Guidelines.

4. The process for claiming public interest immunity described in the Order is largely consistent with the process that is set out in sections 4.4 to 4.11. While the Guidelines explain the process for making public interest immunity claims to protect against the disclosure of information or documents at committee hearings, it has been relatively uncommon in practice for officials appearing as witnesses at committee hearings, particularly estimates hearings, to be asked to provide copies, for example of departmental briefs to ministers. The Order of 13 May 2009 makes it seem more likely that officials and ministers will be asked to provide information or documents of this kind at Senate committee hearings, including estimates hearings, than has been the case in the past.

Summary of advice

5. It is important that the public interest is not inadvertently damaged as a result of information or documents being released without a proper assessment of the possible consequences. Accordingly, if an official is asked to provide information or documents to a Senate committee:

- if the official is satisfied that its disclosure would not harm the public interest, he or she should advise the minister that the material can be provided;
- if the official is satisfied that the disclosure of the material would damage the public interest, he or she should advise the committee that the material cannot be provided and explain how its disclosure would damage the public interest; and
- if the official is uncertain whether the disclosure of the material would damage the public interest, he or she should take the question on notice.

The grounds for claiming public interest immunity and the process for making such a claim at estimates hearings are set out below.

Grounds for a public interest immunity claim

6. While the parliament has the power to require the production of documents, it is acknowledged that the Government holds some information the disclosure of which would be contrary to the public interest. Where the public interest in the information remaining confidential outweighs the public interest in its disclosure, the Government would normally make a public interest immunity claim.

7. There are several recognised and accepted grounds on which ministers may rely when claiming public interest immunity in relation to information or documents requested by the Senate or a Senate committee. These are set out at section 4.6 of the Guidelines. As the Procedure Committee notes in its report, however, it is conceivable that new grounds could arise.

8. By way of example, public interest immunity claims may be made in relation to information or documents whose disclosure would, or might reasonably be expected to:

- damage Australia's national security, defence or international relations;
- damage relations between the Commonwealth and the States;
- disclose the deliberations of Cabinet; and
- prejudice the investigation of a criminal offence, disclose the identity of a confidential source or methods of preventing, detecting or investigating breaches of the law, prejudice a fair trial or endanger the life or safety of any person.

9. It is, of course, possible for more than one ground to apply to the same document, in which case all relevant grounds should be specified.

Public interest conditional exemption – deliberative processes

10. A public interest immunity claim may also be made in relation to material disclosing matters in the nature of, or relating to, opinion, advice or recommendation obtained, prepared or recorded, or consultation or deliberation that has taken place in the course of, or for the purpose of, the deliberative processes involved in the functions of the Government *where disclosure at that time would, on balance, be contrary to the public interest* [emphasis added – see paragraph 4.6.2 of the Guidelines]. Because the Senate Order requires ministers to specify the harm that could result from disclosure of information or a document of this kind, claims for public interest immunity on this ground will involve a greater degree of judgment and subjectivity, and may therefore be less readily accepted, than claims based on the various grounds described in paragraph 8 above.

11. Information and documents whose disclosure would not damage the public interest should be provided to parliamentary committees as soon as possible. It is important, however, that officials and ministers do not inadvertently damage the public interest by disclosing information that ought to remain confidential. Officials and ministers therefore need to consider carefully whether particular documents should be the subject of a public interest immunity claim before they are released. This will frequently not be possible in the relatively short timeframe available for estimates hearings, particularly as the responsible minister and

relevant officials may need to devote their time to the hearings. If the request relates to a small number of documents, it may be possible to respond before the committee completes its hearings. If a large number of documents have been sought, or if the issues involved are complex, the minister may need to advise the committee that it will not be possible to respond until a later date (although it may be possible to provide some documents, or parts of some documents, while the committee is sitting).

12. In briefing ministers on the question whether it is appropriate to disclose information or documents to a committee, officials must assess and balance the public interest in disclosure of the information or document against the public interest, if any, in maintaining its confidentiality. This is a similar process to that which is undertaken when officials provide advice to ministers in relation to a Senate order to produce documents, or in deciding whether to provide access to documents under section 47C of the *Freedom of Information Act 1982* (although it should be noted that the provisions of the FOI Act have no direct application to questions about the provision of information to a Senate committee), or in response to an order to discover documents that are relevant to litigation involving the Commonwealth.

13. It may also be appropriate to decline to provide information or documents if to do so would unreasonably disclose personal information or disclose material that could be the subject of a claim for legal professional privilege.

Process for claiming public interest immunity

14. Public interest immunity claims must be made by ministers. However, Senate committees, particularly estimates committees, receive most of their evidence from officials, and it is they who are most likely in the first instance to be asked to provide information or documents that might be the subject of a public interest immunity claim.

15. The Senate Order describes in some detail the process leading up to a claim for public interest immunity. An official who considers that he or she has been asked to provide information or a document that might properly be the subject of a public interest immunity claim could either:

- advise the committee of the ground for that belief and specify the damage that might be done to the public interest if the information or document were disclosed (paragraph 1 of the Order); or

- take the question on notice.

The official could also refer the question to the minister at the table, but it is unlikely that the minister would be well-placed to make a considered decision on the question at that time.

16. The public interest in not disclosing information or documents on any of the grounds described in paragraph 8 above is self-evident and in many cases the need for such a claim would be readily apparent to officials at the hearing. If it is not, the official should ask if the question can be taken on notice so that it can be properly considered and the minister briefed.

17. It would be reasonable to expect that an official's evidence that a document is a Cabinet document or that, in his or her view, disclosure of the information or document in question might damage Australia's national security, for example, would be accepted by individual senators and committees with the result that the matter would not be taken further.

18. If that is not the case, however, the committee or the senator may request the official to refer the matter to the responsible minister (paragraph 2 of the Order). This would frequently mean that the question would need to be taken on notice. It is possible that the minister at the table, if he or she is not the relevant portfolio minister, may wish to ascertain the portfolio minister's views on the possible release of the information or document.

19. If the minister concludes that it would not be in the public interest to disclose the information or document, he or she "shall provide to the committee a statement of the ground for that conclusion, specifying the harm to the public interest that could result from the disclosure of the information or document" (paragraph 3 of the Order).

20. Paragraph 4 of the Order is not relevant for the purposes of estimates committees, which cannot take evidence in camera, but needs to be considered in the context of other committee hearings.

21. If a committee considers that a minister's statement in support of a public interest immunity claim does not justify the withholding of the information or document, it can report the matter to the Senate (paragraph 5 of the Order). In that event, the Senate would probably consider whether to order that the documents be produced. If the committee decides not to report the matter to the Senate, the senator who sought the information or document may do so (paragraph 6 of the Order).

22. In recent years, officials and ministers have not normally been pressed for copies of deliberative documents, particularly during Estimates hearings, with questions being limited to whether ministers have been briefed on particular issues and, if so, when that occurred. Paragraph 7 of the Order makes it clear, however, that committees will not accept a claim for public interest immunity based only on the ground that the document in question is a deliberative document: a minister must also specify the harm to the public interest that may result from the disclosure of the information or document that has been requested. Again, the need to give careful consideration to the issues involved will frequently mean that the matter has to be taken on notice.

23. Finally, the Order recognises that there may be occasions when it would be more appropriate for the head of an agency, rather than the minister, to make a claim for public interest immunity (paragraph 8 of the Order). This might occur, for example, in relation to information or documents held by agencies that have a significant degree of independence from Government, such as law enforcement agencies, courts and tribunals, the Auditor-General, Commonwealth Ombudsman and some regulatory agencies.

Order of the Senate, 13 May 2009

Public interest immunity claims

That the Senate—

(a) notes that ministers and officers have continued to refuse to provide information to Senate committees without properly raising claims of public interest immunity as required by past resolutions of the Senate;

(b) reaffirms the principles of past resolutions of the Senate by this order, to provide ministers and officers with guidance as to the proper process for raising public interest immunity claims and to consolidate those past resolutions of the Senate;

(c) orders that the following operate as an order of continuing effect:

(1) If:

(a) a Senate committee, or a senator in the course of proceedings of a committee, requests information or a document from a Commonwealth department or agency; and

(b) an officer of the department or agency to whom the request is directed believes that it may not be in the public interest to disclose the information or document to the committee,

the officer shall state to the committee the ground on which the officer believes that it may not be in the public interest to disclose the information or document to the committee, and specify the harm to the public interest that could result from the disclosure of the information or document.

(2) If, after receiving the officer's statement under paragraph (1), the committee or the senator requests the officer to refer the question of the disclosure of the information or document to a responsible minister, the officer shall refer that question to the minister.

(3) If a minister, on a reference by an officer under paragraph (2), concludes that it would not be in the public interest to disclose the information or document to the committee, the minister shall provide to the committee a statement of the ground for that conclusion, specifying the harm to the public interest that could result from the disclosure of the information or document.

(4) A minister, in a statement under paragraph (3), shall indicate whether the harm to the public interest that could result from the disclosure of the information or document to the committee could result only from the publication of the information or document by the committee, or could result, equally or in part, from the disclosure of the information or document to the committee as in camera evidence.

(5) If, after considering a statement by a minister provided under paragraph (3), the committee concludes that the statement does not sufficiently justify the withholding of the information or document from the committee, the committee shall report the matter to the Senate.

(6) A decision by a committee not to report a matter to the Senate under paragraph (5) does not prevent a senator from raising the matter in the Senate in accordance with other procedures of the Senate.

(7) A statement that information or a document is not published, or is confidential, or consists of advice to, or internal deliberations of, government, in the absence of specification of the harm to the public interest that could result from the disclosure of the information or document, is not a statement that meets the requirements of paragraph (1) or (4).

(8) If a minister concludes that a statement under paragraph (3) should more appropriately be made by the head of an agency, by reason of the independence of that agency from ministerial direction or control, the minister shall inform the committee of that conclusion and the reason for that conclusion, and shall refer the matter to the head of the agency, who shall then be required to provide a statement in accordance with paragraph (3).

(d) requires the Procedure Committee to review the operation of this order and report to the Senate by 20 August 2009.

(13 May 2009)

ATTACHMENT B

Provision of commercial-in-confidence material to the Senate

See also section 4.10 in the *Guidelines*

On 30 October 2003 the Senate agreed to the following motion on commercial-in-confidence material:

> That the Senate and Senate committees shall not entertain any claim to withhold information from the Senate or a committee on the grounds that it is commercial-in-confidence, unless the claim is made by a minister and is accompanied by a statement setting out the basis for the claim, including a statement of any commercial harm that may result from the disclosure of the information.

Senate committees have not always pressed a request for material when officials have stated the grounds on which they consider material to be confidential-in-confidence. The Senate order set out above does not mean that officials should no longer indicate that they consider that material might appropriately be withheld. However, if the Committee presses its request, officials should refer it to the relevant minister. If the minister determines that a claim of public interest immunity should be made, the procedures set out at sections 4.4 to 4.11 should be followed.

As a general guide, it would be inappropriate to disclose information that could disadvantage a contractor and advantage their competitors in future tender processes, for example:

(a) details of commercial strategies or fee/price structures (where this would reveal information about the contractor's cost structure or whether the contractor was making a profit or loss on the supply of a particular good or service)

(b) details of intellectual property and other information which would be of significant commercial value

(c) special terms which are unique to a particular contract, the disclosure of which may, or could reasonably be expected to, prejudice the contractor's ability to negotiate contracts with other customers or adversely affect the future supply of information or services to the Commonwealth.

The following information would normally be disclosed:

(a) details of contracting processes including tender specifications, criteria for evaluating tenders, and criteria for measuring performance of the successful tenderer (but not information about the content or assessment of individual tenders)

(b) a description of total amounts payable under a contract (i.e., as a minimum the information that would be reported in the Commonwealth Gazette or, for consultants, the information that would be reported in an agency's annual report)

(c) an account of the performance measures to be applied

(d) factual information about outcomes.

ATTENDING ESTIMATES… Parking arrangements and access to Parliament House

Accessing staff carparks and entering via Senate/HoR/Ministerial entrances

In 2011the Presiding Officers approved changes to the parking arrangements within the Parliamentary precinct that mean that Commonwealth agencies and sponsored (lobbyist) pass holders will generally no longer be able to access the Senate and House of Representative car parks.

Twenty extra car spaces within the public car park will be reserved for public servants whose vehicles have a Commonwealth Government sticker displayed. These spaces will be signposted and require the display of valid permits. Commonwealth and sponsored pass holders will continue to have access to the Ministerial open-air car parks, and any pass holder with access to slip roads or the Ministerial underground car park will retain that access.

Alternative parking may be available:

a) in the Parliament House public car park - Please note that fees apply after 2 hours; http://www.aph.gov.au/Visit_Parliament/Planning_a_visit/FAQs_paid_parking

b) along Federation Mall; or

c) at the West Block car park (off Queen Victoria Terrace).

The Department has recommended in the past that witnesses for the forthcoming Estimates hearings consider sharing cars or catching taxis to and from Parliament House. There is a taxi rank in the public car park at the front of the building.

Entering Parliament House through the main entrance:

- From 8.00am to 9.00am—Passes will be issued at the pass desk in the marble foyer (adjacent to the right side marble stairs).
- From 9.00am onwards—Passes will be issued in the Tom Roberts Foyer, (first floor, outside the Main Committee Room).
- The front entrance will remain open until one hour after the last committee has risen (approx midnight), to allow you to return easily to the public car park.

All agency attendee lists will be at all doors.

Media Statement

Australian Government
Australian Sports Anti-Doping Authority

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12 JANUARY 2016

Court of Arbitration for Sport Decision - Essendon Players

The Australian Sports Anti-Doping Authority (ASADA) today acknowledged the decision of the Court of Arbitration for Sport (CAS) to impose two year bans on 34 current and former Essendon Football Club players for the use of the prohibited substance Thymosin Beta 4.

The CAS result is final and overturns the decision of the AFL Anti-Doping Tribunal announced in March 2015. It comes in response to the World Anti-Doping Agency's (WADA) appeal of that Tribunal decision, which ASADA assisted in and strongly supported.

Despite the absence of positive test results, WADA was able to use evidence gathered by ASADA to prove that the players had been injected with the prohibited substance as part of a team program designed to give Essendon an unfair advantage in the 2012 season.

The evidence included text messages outlining a plan to source Thymosin Beta 4 for the purpose of doping the Essendon team, testimonies from players and officials, and a scientific analysis of substances sourced for the team.

It is the same evidence ASADA presented to the AFL Tribunal, however the different outcome represents the proper application of the burden of proof – comfortable satisfaction – as intended by the World Anti-Doping Code.

ASADA CEO Ben McDevitt said: "This unfortunate episode has chronicled the most devastating self-inflicted injury by a sporting club in Australian history."

On the sanctions, he said: "There were very little grounds for the players to claim they were at no significant fault."

"The players had received anti-doping education through the AFL and ASADA, and were well aware that they are personally responsible for all substances that entered their body."

"Unfortunately, despite their education, they agreed to be injected with a number of substances they had little knowledge of, made no enquiries about the substance and kept the injections from their team doctor and ASADA."

"Of 30 ASADA testing missions during the period in question, none of the 18 players tested declared the injections, despite being asked each time whether they had taken any supplements."

"At best, the players did not ask the questions, or the people, they should have. At worst, they were complicit in a culture of secrecy and concealment."

"The CAS result brings this matter to a close and ASADA looks forward to continuing to work with all sporting codes to promote a clean and fair sporting environment."

The two-year ban imposed by the CAS has been backdated on a case by case basis, with respect to time already served by the players who accepted provisional suspensions in 2013, and delays to the case outside of the players' control.

The table below shows the sanctions applied to each player. Until then, each player is ineligible to participate, as an athlete or support person, in any sports that have adopted a World Anti-Doping Agency compliant anti-doping policy.

Player	Expiry of ineligibility
Thomas Bellchambers	13 November 2016
Alex Browne	13 November 2016
Jake Carlisle	13 November 2016
Travis Colyer	13 November 2016
Stewart Crameri	13 November 2016
Alwyn Davey	15 February 2017
Luke Davis	13 November 2016
Cory Dell'Olio	14 November 2016
Ricky Dyson	13 November 2016
Dustin Fletcher	21 November 2016
Scott Gumbleton	13 November 2016
Kyle Hardingham	13 November 2016
Dyson Heppell	13 November 2016
Michael Hibberd	13 November 2016
David Hille	13 November 2016
Heath Hocking	13 November 2016
Cale Hooker	13 November 2016
Ben Howlett	13 November 2016
Michael Hurley	13 November 2016
Leroy Jetta	15 February 2017
Brendan Lee	13 November 2016
Sam Lonergan	13 November 2016
Nathan Lovett-Murray	15 December 2016
Mark McVeigh	13 November 2016
Jake Melksham	13 November 2016
Angus Monfries	13 November 2016
David Myers	13 November 2016
Tayte Pears	13 November 2016
Brent Prismall	13 November 2016
Patrick Ryder	13 November 2016
Henry Slattery	13 November 2016
Brett Stanton	13 November 2016
Ariel Steinberg	13 November 2016
Jobe Watson	21 November 2016

-ENDS-

Media note: ASADA CEO Ben McDevitt will be holding a press conference at 1:30pm today. A media alert will be sent shortly.

Media contact: P s22 [redacted] **E:** media@asada.gov.au

Transcript

Station:	**CANBERRA CONFERENCE UNIT**	Date:	**12/01/2016**
Program:	**BRIEFING**	Time:	**07:56 AM**
Compere:		Summary ID:	**C00064518317**
Item:	**QUESTION AND ANSWER SESSION WITH BEN MCDEVITT (ASADA).**		

Audience:	Male 16+	Female 16+	All people
	N/A	N/A	N/A

QUESTION: Mr McDevitt, ASADA copped significant criticism when the AFL Tribunal did clear the Essendon players. Do you feel vindicated today?

BEN MCDEVITT: I made it quite clear that I felt when the AFL Tribunal decision was issued, that - and I think I said at the press conference after that, that my sense was an appeal was a live option, and my sense was that this particular journey was far from complete. I have nothing to say in a disparaging way about the integrity of the persons who sit on the AFL anti-doping tribunal. I believe they are all people of great personal integrity. They made a decision which I believe was incorrect, and which I believe needed to be challenged.

Beyond talking about this particular case and that particular tribunal, I hold a very strong philosophical view that sports, any sports, in matters such as this should not police themselves. I believe that it puts the sport in an incredibly unenviable position whereby there is an inherent opportunity for potential conflict of interest for a sport at the one time to be responsible for promoting the sport and policing the sport. That's my personal philosophical view and I think you'll find

that there are a number of inquiries which support that and which make recommendations, and you look internationally now and you'll see there have been a number of pushes for sports to be placed in a position where they assist with governance, they assist with identifying and dealing with allegations of this type, but that we need truly independent review and arbitration.

QUESTION: I read some strong criticism about the players. Are you satisfied with the 12 month ban effectively or do you think maybe lifetime bans should have been considered for some of them, and should Jobe Watson lose his Brownlow Medal out of this?

BEN MCDEVITT: Well I think the first point is just to dispel a myth that seems to be out there generally, and that is one that ASADA actually determines penalties. ASADA doesn't actually determine penalties. Penalties are actually determined by the sports themselves, unless a matter goes beyond the sport, such as in this case to the Court of Arbitration for Sport, where they actually determine the penalty. Do I think that lifetime bans should apply here? No, I don't, and the world anti-doping code does not contemplate that sort of penalty for this form of violation by an athlete.

It does, for example, contemplate that form of penalty for the sort of activities alleged to have been undertaken by Mr Stephen Dank, and as you can see there, he has been given a lifetime ban, although I hasten to add that that is subject of appeal. In relation to Jobe Watson's Brownlow Medal, it's not up to me to

voice any view on that. That's entirely a matter for the AFL.

QUESTION: The Players Association, even after this decision said they don't have a great deal of faith in the WADA regime and that ASADA was part of that. You talk about moving on and working with the AFL to go on from this; how does criticism like that, even after CASA's decision, where does that put ASADA?

BEN MCDEVITT: Look, I have found Gill McLachlan and the AFL and their integrity team good to work with in terms of adherence to the code, the world anti-doping code. It's not a perfect code. It's in its third iteration, it takes a long time for submissions - and hundreds of submissions are received from sporting bodies and governments and everything else in each iteration of the code. You know, it's fair to say that I think it's always going to be a work in progress. But I defy anybody to say that it's not suited to team-based sport, because there's lots and lots of Olympic sports which are team-based sports. I do think that it's appropriate; I think what you've seen here is a system that, though it's protracted, has reached the right conclusion, and ultimately we are now at the end of the journey. I think the right outcomes have been released. The Players Association are entitled to express their view. We will continue to do what we can as an effective and ethical regulator that works within the framework.

I don't have any bias against any individual sport, team or athlete. We have 85 sports in this country which are subject to the anti-doping framework. I think I've said

previously that in the last 12 months in the order of 50 athletes from ten different sports have been subjected to sanctions under that regime. I think it's reasonably effective. But as I said earlier, I do think we can work to streamline the processes from alleged violation to their conclusion.

QUESTION: The bulk of these players are from- are still playing with Essendon. Some have moved on to other clubs now. Do you think it's fair these other clubs now have been punished because of the actions of the Essendon Football Club, in that they now can't use those players, some of them who are key players for them?

BEN MCDEVITT: Well, I mean look, that's a matter I guess for the clubs and the AFL. My only point would be that I think right through this matter, through the last three years, everything's been very transparent, very visible, and the media have - there's been very comprehensive coverage, so I would assume that in any transaction of movement of a player, all parties would have probably been aware that there were some events that were possibly still unfolding.

QUESTION: Is ASADA resourced and funded well enough to meet public expectations?

BEN MCDEVITT: That's a good question, you'll never see a CEO of any government agency say that they could do with less resources. That would be my first point. We have shifted our focus quite considerably over the last 18 months or so, away from being an agency which is test centric in terms of collection of blood and urine - not

that that's not still a very important tool in an anti-doping agency's armoury - across to more effort into investigations and intelligence, so that our testing program is then much more targeted, so that we are testing for the right substance, the right athlete at the right time. And so I think to that extent, we've got the balance about right, but of course I wouldn't say no to any more resources, if they came to be offered to us.

QUESTION: Are you confident that the AFL will remain a signatory and not go down the road of American baseball or NFL and not be a signatory to WADA?

BEN MCDEVITT: Well in all of the discussion that I have had with Gill McLachlan, this has come up on a couple of occasions, and Gill's always expressed to me a commitment to clean sport and to the AFL maintaining its position within the WADA and ASADA anti-doping framework. That doesn't mean that Gill, as with other sports administrators, might not want to try to influence the framework and its direction, and that's fair and reasonable and there are opportunities for that. But Gill's shown a real preparedness to work with us and to keep target hardening their sport, which is what we want to do.

QUESTION: When this story broke it was labelled the blackest day in Australian sport - do you agree with that assessment? And secondly, there were suggestions that there were links to organised crime in terms of some of the provisions of the prohibited substances. What's your view on that link now?

BEN MCDEVITT: My personal view is that the term blackest day in sport was, you know, sort of not helpful, and hasn't been helpful in any way throughout this. I believe- my personal view is that the release of the report and the manner of the report, and the manner in which it was released was ill-conceived and ill-timed, and I believe it placed this agency, ASADA, in an extraordinarily difficult position, where it had to commence investigations where clubs were named within 24 hours, and where it then had to go about collecting evidence under the glare of a media spotlight. That is not the way - that's totally opposite to the way that an anti-doping organisation would not work- would work.

In relation to the report itself, I think that there was - whilst I think what you've got is a message and then a message delivery system - I've just said my view about the message delivery system - I think the message itself, the report itself, the Aperio report has a lot of integrity. I think you've seen that through - you know, we have now had multiple violations proved in two different sporting codes. As I've said, we've had over 50- around 50 athletes sanctioned across ten different sports in the last 12 months. We've had significant surges in the seizures of peptides and steroids at the border in the last 12 months, significant increases in those seizures.

We have had significant increases of arrests for steroids. We've had an absolute surge of young people engaging in peptide use and performance enhancing and image enhancing substances. Not all for performance enhancement, and quite often seems to

be the case that it's more about image enhancement. But at the end of the day I think where we are now has shown that there were definite elements of fact and truth lying within the intelligence in that report.

QUESTION: The Health Minister Sussan Ley has come out with a statement today claiming the- which refers to the previous Labor Government in that blackest day in sport, and the media treatment of that report at the time, and blames the previous government for prolonging or dragging out this investigation. What do you have to say about that?

BEN MCDEVITT: Well it's not for me to get involved in politics. My comment was - and is - that I do believe that the release was ill-conceived and ill-timed in terms of ASADA, the agency - and don't forget this was 18 months before I got to ASADA - but I think it obviously placed ASADA in an extraordinarily difficult position in terms of it being then able to actually do its job, and determine whether or not some of the things that were being spoken about had a factual basis behind them.

QUESTION: Do you think it dragged out the investigation though, the political handling of that?

BEN MCDEVITT: Look, there were multiple reasons I think why the actual investigation took as long as it did, and don't forget, you know, one of those - and a number of these reasons have been accepted by the Court of Arbitration for Sport, and in the- and by the NRL Tribunal in relation to the Cronulla matters. It did take time, for

example, for ASADA to be able to - for the passage of legislation to go through Parliament so that ASADA could be armed with the sort of powers that it needed to conduct this sort of investigation. And that's just one example.

QUESTION: What about James Hird's role in all of this? What do you think about him, he's a legend of the game, what do think- how do you think football will view him now?

BEN MCDEVITT: Well I don't- I mean, that's up to the spectators, the fans, the AFL, and the club, as to how - you know, the history books will portray James Hird. Thanks very much.

*** * END * ***

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Transcript

Station:	**CANBERRA CONFERENCE UNIT**	Date:	**12/01/2016**
Program:	**BRIEFING**	Time:	**07:30 AM**
Compere:		Summary ID:	**C00064518308**
Item:	**PRESS CONFERENCE BY BEN MCDEVITT (ASADA), DISCUSSING THE COURT OF ARBITRATION FOR SPORT DECISION.**		

Audience:	Male 16+	Female 16+	All people
	N/A	N/A	N/A

BEN MCDEVITT: Well, good afternoon everybody and thank you for attending. As you're aware, the Court of Arbitration for Sport has handed down its decision in relation to the 34 current and former Essendon players. The panel was comfortably satisfied that the players had used the prohibited substance Thymocin Beta-4 during the 2012 season. As sanctions, the panel handed down a two-year ban to each of the 34 players. I will talk more on the sanctions a little later.

But first I'd like to acknowledge the CAS panel itself. This has been the most complex anti-doping case in Australia's history and their independence, consideration and expertise on this matter has been absolutely invaluable. I would like to also start by saying that today's verdict or decision doesn't bring me any particular joy. There are no winners when a team of professional athletes sign on to a program of secret injections of a prohibited substance. ASADA celebrates honest, fair competition, clean sport and our education and engagement teams work very, very hard to prevent doping. I much prefer to put my efforts into

target hardening sports than having to conduct investigations into doping allegations.

But when people act outside of the rules, we will take action and I am very pleased that ASADA pursued this case to the end. As I have said before, I strongly believe that had we not pursued this case, we would have been in gross dereliction of our duty as the national regulator for anti-doping in this country. Our job includes the investigation of possible doping violations and an effective and ethical regulator doesn't just take the easy cases. We don't just pursue the cases where there is a positive test, for example, and this was one of the more difficult cases to pursue. As you all know, there was no positive test involved in this investigation. But when we have evidence, we've got to pursue it, we've got to implement the framework and we've got to do our job without fear or without favour. Regardless of actually how long it might take to see it resolved. Let's not forget that Australia's ability to compete in international sport relies on our commitment to clean sport and we need to fiercely guard that reputation that we have as one of the finest sporting nations on the planet. Sweeping a case under the carpet because it's too complex or too difficult is not an option and never will be. This case had to be pursued until the truth was revealed.

In my view, this entire episode has chronicled the most devastating case of self-inflicted injury by a sporting club in Australia's history. And this self-inflicted injury began with a decision to embark upon an injections program designed to give this sporting club a

competitive edge against its rivals. In fact, that wasn't the outcome that was achieved. In fact, it has resulted in enormous financial costs for the club, untold damage to its reputation and to the reputation of the sport itself and, as yet, largely unknown mental and physical effects for those who were participants in the injections program. The toll for Essendon has certainly been enormous. And I hope that Essendon is able to regain its former status as one of the most iconic sporting clubs in this nation. And I can say that ASADA stands ready to work with Essendon and to work with the AFL, as we do, to assist to target-harden the environment and make the environment across the AFL and across their clubs even more hostile to doping than it is right now.

And I might add that a lot of work has been done by Gillon McLachlan and the AFL in terms of introduction of measures such as no-injections regimes, no-injections programs, declaration of all supplements, background checking of potential employees coming into the club and so on and so on. I'm sure people will ask me do I feel for the players? Yes, I do. I feel for them quite strongly on a couple of fronts. One is that the length of time that this has involved. I think it's gone on for too long. And there are multiple reasons for why this has gone on for three-plus years. And some of those are reasons that are beyond the control of any particular party involved. You know we've had a lot of appeals, we have some extended processes, our framework, I believe, is rather convoluted, I think it is cumbersome and I agree with the ex-former Federal Court judge who reviewed our framework that it is delay-prone. So, on that front, I feel for the players.

I'm strongly of the view that we as a collective need to be able to streamline the timeframes involved between notification of an alleged violation or receipt of information about an alleged violation and its final resolution. I am more than happy to work to the best of my ability to assist in doing that. So that's one front on which I feel for the players. The second front I feel for them is in relation to their awareness about the decisions that they made in the lead-up to the 2012 season. They made conscious decisions, very conscious decisions. But they obviously never paid due regard to the enormous possible ramifications and consequences of those decisions that they made when they signed on to a program involving injections of those substances. They never considered probably the impact it would have on their own playing futures, on their own personal reputations as players, on the reputation of the club that they played for, on the reputation of the code and, in particular, on the possible mental and physical implications and ramifications that this may have for them in the future. I also feel for their fans who must feel so badly let down. My final point before I come to the details of WADA's case is just to recap on some of the events that led us to where we are now in 2016.

Everybody I think is familiar with the report released by the Australian Crime Commission in February of 2013, summarised an investigation which had found widespread use of peptides and hormones by professional athletes in Australia including officials from a club administering a variety of substances via injections and IV drips. Three months later, you will recall Essendon released their own independent review

conducted by Ziggy Switkowski which reported a disturbing picture of a farm pharmacologically experimental environment never adequately controlled or documented within the club. Another three months later, Essendon was fined $2 million by the AFL for permitting a culture of frequent, uninformed and unregulated use of the injection of substances. And as I've said before, I strongly applaud the AFL for the very strong action they took in relation to governance failures at Essendon. Last year, the AFL Anti-Doping Tribunal cleared the 34 current and former players but found a deplorable failure to keep comprehensive records and an unquestioning reliance on the sports scientist. Only a few weeks ago, you would be aware Essendon pleaded guilty to WorkSafe Victoria charges in relation to failing to provide a safe working environment without risks to health.

So, that's a recap and it brings us to where we are now with the outcome of the appeal by WADA. As you are aware, ASADA originally took this case before the AFL Anti-Doping Tribunal and that tribunal was not satisfied by the evidence put before it. As I said last year, I believe the tribunal got it wrong. But the appeal process open to ASADA was cumbersome. We had no direct right of appeal to the Court of Arbitration for Sport without first having the case heard in the AFL Anti-Doping Appeals Tribunal. This would have drawn out this matter for at least another year and I believe the outcome would not have changed. With the knowledge that WADA had an interest in the case, I decided that ASADA would forego its appeal opportunity in order to speed up the time before the case was potentially heard before an experienced and

independent Court of Arbitration for Sport panel. WADA subsequently did choose to exercise their independent right of appeal to CAS and they did that following their own internal reviews of which I think there were two of the case files which we had provided to WADA.

ASADA fully supported the decision by WADA to appeal these matters. WADA's reasons for appealing were twofold: Firstly, they believed that the AFL anti-doping tribunal had set the bar for comfortable satisfaction too high and, secondly, they believed that the decision set a dangerous precedent for anti-doping cases where there was not a positive blood or urine test. Why did both WADA and ASADA think that? The reason is because the AFL Tribunal accepted that Stephen Dank made plans to use Thymosin Beta-4 as part of Essendon's injection program. Despite this - sorry, they also accepted the players had consented to being injected with Thymosin and that injections had occurred. Despite this, they were not comfortably concerned or satisfied that the injections actually contained Thymosin Beta-4 because there were no adequate records kept and because Essendon failed to carry out lab analysis of the substances.

This level of satisfaction, this requirement, would make it almost impossible for any anti-doping agency to pursue a case that did not involve a positive test in blood or urine. In the lead-up to the CAS appeal hearing, some media outlets reported that WADA had new evidence to bring to the hearing, including a test for Thymosin Beta-4 however, despite an attempt to

develop such a test, there is still no reliable way to detect artificial Thymosin Beta-4. This means that other than the substitution of one scientific expert, WADA's case was built on the same evidence presented to ASADA- by ASADA to the AFL Tribunal. In fact, the case presented by WADA was actually put together by WADA and ASADA lawyers working together using the evidence which had previously been collected by ASADA. So, no, it was not a more compelling case and the Court of Arbitration for Sport acknowledged that their decision was based on the same evidence presented earlier by ASADA. They placed no reliance on any new scientific evidence. The key difference which led to a very different outcome was in relation to the proper application of the burden of proof. And that burden, as you know, is comfortable satisfaction in accordance with the World Anti-Doping Code. To be blunt, the AFL Tribunal simply got it wrong.

Now that the CAS decision is final, I can share some facts of the case, some which have previously been confidential. Broadly, there was clear evidence that members of the club implemented a program designed to make Essendon players bigger and stronger and able to recover more quickly to gain an advantage over their opposition. In the words of Stephen Dank; Thymosin was the vital cornerstone of that program. I will offer a brief summary of some of the evidence that led to that conclusion, though bear in mind there are over 10,000 pages of evidence tendered as exhibits during the hearing. Firstly, Essendon's sports scientist Stephen Dank was shown to have used Thymosin Beta-4 on other athletes prior to his arrival at Essendon. There were over 100 text messages that unveiled a plan to

source Thymosin Beta-4 for the purpose of doping the Essendon team. The players signed consent forms agreeing to Thymosin injections and each received a number of injections. Six players reported being told they were being injected with Thymosin. Two players reported seeing vials marked with the word Thymosin in the sports scientist's fridge. Two players sent text messages discussing their Thymosin injections with Stephen Dank. Scientific analysis of a substance compounded by the pharmacist for Essendon showed that the substance was no other kind of Thymosin other than Thymosin Beta-4 with a 97 to 99 per cent accuracy. So, to be frank, the defence raised that this was a good Thymosin or Thymomodulin or something else was frankly dismissed as rubbish. This evidence, all of which was collected by ASADA, proved that the players had been injected with Thymosin Beta-4. At this point, CAS then considered the sanctions. The panel did not find the players to be at no significant fault or negligence. In fact, in their words the players' lack of curiosity is fatal to the success of this particular plea. Some of the facts they considered were: Firstly, all of the players had had anti-doping education. As such, they were all well aware they are personally responsible for personally responsible for any substances that enter their body.

The players were told by team officials that this program would push the edge and was close to the line in terms of legality. They made no inquiries via ASADA, via WADA or Internet searches as to what Thymosin was. ASADA conducted 30 testing missions at Essendon during the time in question between February and September 2012, 30 testing missions. Each time players

subjected to tests were asked the standard questions by our doping control officers which were to declare any substances that they had taken, be it Panadol, Ibuprofen, protein powder, but in 30 tests- in 30 approaches only one player declared a supplement injection and declared that was for vitamin B. They also hid the injections from their team doctor who testified that no player had ever asked about any of the substances.

Finally, let's not talk about children or minors. These are not minors or children. These are adults. They are adults, professional athletes. At the end of the day, 34 players signed on to receive four substances. Yes, they were told the injection program was WADA compliant, but they adopted a head in the sand approach in contravention of their anti-doping education. They agreed to keep it a secret. They failed to declare the injections to doping control officers, they accepted that they were walking close to the line, and they deliberately kept it from the team doctor. This culture of concealment is supported by the club's apparent lack of any credible documentation. This was a secret program and the players were not just innocent bystanders.

At best, the players did not ask the questions or the people that they should have. At worst, they were complicit in a culture of secrecy and concealment. Many believe that the sanctions that Essendon received as a club for governance issues should be sufficient. As I said, I commend the AFL for the strong action they took against the club as a whole for poor

governance. But that did not mean that the cases against the individual players could be dropped and should not be pursued.

Athletes around Australia are told time and time again that they are responsible for what goes into their bodies. That premise - personal responsibility - is actually the cornerstone of not only the Australian anti-doping code but the world anti-doping code. And you simply cannot shift that personal responsibility to any support person or any other person full stop. It remains fully and squarely with the athlete. To not pursue the Essendon players would have been an injustice to all clean athletes, who do the right thing and take their anti-doping responsibility seriously.

Let's not forget - the players had a choice. One player said no, and that player is free to play this season. I will wrap up shortly but firstly I would like to address the fact this case has taken almost three years. In anti-doping cases of this sort of size and complexity, this is not unusual. The Lance Armstrong case took two years. The Balko case took three years. And we are here in 2016 not because of decisions made by ASADA or anybody else in 2013, 2014 or 2015. We are here because of decisions made by the club and the players in 2012. Of course, there are lessons to be learned from this case, and we will continue to review what took place. The inability of either the AFL Tribunal or the Court of Arbitration for Sport to be able to compel witnesses to testify is one area which is an ongoing concern to me. But there are other outcomes to take from this.

This case has been a watershed for Australian anti-doping. It has consumed the media, ASADA, Essendon and the AFL for the better part of three years. But if there is something good to come out of this, it is that Australia has come out stronger in terms of its anti-doping resilience and capabilities. Awareness has increased. Education has increased significantly. Sports policies have improved significantly. Anti-doping and values-based decision making are actually now part of the national schools curriculum. Given it has occurred in front of an international backdrop of doping scandals, it shows that Australia - and that ASADA - is fully committed to pursuing anti-doping violations.

Our clean athletes should take immense comfort knowing that ASADA is in their corner and willing and able to catch dopers. At the same time, I hope this case serves as a warning to any other athletes who may be considering doping or who are offered secret substances. ASADA has one of the best anti-doping education programs in the world, and we will continue to engage with athletes and sports to ensure they are aware of their anti-doping responsibilities. Once more, I thank CAS for their expertise in this matter. I thank WADA, and I thank the hard working officers at ASADA, both past and present, who have persevered against much adversity to bring this case to its rightful conclusion.

It has taken a long time, but the result is the exposure of the worst case of team-based doping that this country has ever seen. Why did ASADA pursue this case despite constant attacks and calls to drop the matter,

to move on and say nothing to see here? Because at the end of the day, there's always a choice between the easy thing to do and the right thing to do, and you don't just walk away from something because some people simply think it's too hard or it's just taking too long.

Thanks very much, I'm happy to take a few questions.

* * END * *

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HOT ISSUE BRIEFS	
No.	**Title**
1.	Financial and other support to WADA by ASADA (attachment response to Tracey Holmes)
2.	Cost of Cobia investigation (including legal costs)
3.	Cobia – Stephen Dank
4.	Practical implications of sanctions on player
5.	Relevance of WADA Code for Australian sports (includes attachments – Paul Marsh article, Chip Le Grande Article, Richard Di Natale article)
6.	Possible appeal avenues for players
7.	No significant fault – application to the Essendon case (includes attachment – letter to Gillon McLachlan)
8.	Hird & Robinson – Show Cause Notice
9.	ASADA Anti-Doping template
10.	Pre-Olympic and Paralympic programs /Commonwealth Games (includes article from Gold Coast Bulletin)
BACKPOCKET BRIEFS	
11.	Key statistics of ASADA's operations
12.	Agency budget and financial situation (includes attachment)
13.	Cronulla x 5
14.	Agency staffing
15.	Media monitoring
16.	Travel
17.	Enterprise bargaining – status report
18.	Restructuring in the field
19.	Sanctions
20.	Questions on Notice – October 2015
ADMINISTRATION	
21.	Additional Estimates Program
22.	Community Affairs Legislation Committee
23.	Access to Parliament House
24.	Government Guidelines for Official witnesses
25.	Parking information
26.	Transcript – Ben McDevitt press conference

From: s47F s47F
Subject: Fwd: ASADA response - support to WADA [SEC=UNCLASSIFIED]
Date: Wednesday, 10 February 2016 12:17:51 PM

And the s47F response

Sent from my iPhone

Begin forwarded message:

s47F

Subject: ASADA response - support to WADA [SEC=UNCLASSIFIED]

Hi s47F

In response to your enquiry as to how much ASADA contributed to support WADA in its appeal, we paid $130,000 representing half the legal costs of the appeal and a further $10,000 as a contribution to WADA's arbitration fee.

If you need to, please attribute this to an ASADA spokesperson, but not me personally.

Cheers
s47F

ASADA Media
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Note to media: Unless otherwise agreed, the information contained in this email is for background and is not for attribution.

ADDITIONAL ESTIMATES HEARING– 10 FEBRUARY 2016

Brief Number 3

Brief Title: COBIA – STEPHEN DANK

KEY POINTS

- ASADA is a party to Mr Dank's appeal in the AFL Appeals Board. We will continue to be involved in that process.

- As the process is ongoing it would not be appropriate for me to comment on the specifics of matters before that Tribunal.

    - However, it is important to note that the AFL Appeals Board has decided to hear the appeal *de-novo*.

BACKGROUND

s47E(d) [redacted]

- On 17 April 2015, the AFL Anti-Doping Tribunal found that Stephen Dank had committed ten (10) anti-doping rule violations in relation to his conduct whilst engaged as a support person at the Essendon Football Club. There were a number of other possible anti-doping rule violations that the

AFL Anti-Doping Tribunal was not comfortably satisfied of. The Tribunal listed the sanction hearing for 9 June 2015.

- On 28 May 2015, WADA filed an appeal with the Court of Arbitration for Sport in relation to the AFL Anti-Doping Tribunal decision.

- On 9 June 2015, the AFL Tribunal held its sanction hearing. Mr Dank did not attend.

- On 10 June 2015, ASADA filed a request for intervention with the Court of Arbitration for Sport to be added to the matter as an interested party.

- On 25 June 2015, (more than 2 months from their original decision) the AFL Anti-Doping Tribunal imposed a lifetime ban on Mr Dank.

- In the meantime, Mr Dank filed an appeal with the AFL Appeals Board contesting that he had committed any anti-doping rule violations. ASADA cross-appealed, contingent on Mr Dank's appeal progressing.

- On 29 July 2015, the AFL Appeals Board ruled that Mr Dank's appeal was valid.

- The AFL Appeals Board has indicated that the matter is unlikely to be listed for hearing before June 2016.

s47E(d)

- ASADA is a party to the AFL Appeals Board matter and is continuing to be involved in that appeal process.

Author: s22

Executive Clearance: s22

Date Cleared: 4 February 2016

ADDITIONAL ESTIMATES HEARING– 10 FEBRUARY 2016

Brief Number 4

Brief Title: PRACTICAL IMPLICATIONS OF SANCTIONS ON PLAYERS

KEY POINTS

- The conditions and rules for sanctioned athletes are complex and decisions are often dependent on the detailed circumstances. Each activity for players needs to be carefully considered and assessed on a case by case basis.

- Broadly, players cannot play, coach, attend official training sessions or meetings, use club facilities or be otherwise involved in any sport with World Anti-Doping Code compliant rules.

- Both ASADA and WADA have provided guidance to the AFL in relation to our views on what players can and cannot do whilst sanctioned. Ultimately, the power to enforce player sanctions under the AFL Anti-Doping Code is a matter for the AFL.

BACKGROUND

- On 12 January 2016, the Court of Arbitration for Sport banned 34 past and present Essendon players for 2 years, with sanctions deemed to commence on 31 March 2015.

- Sanctions were backdated taking into account periods of provisional suspensions served by players and delays not attributable to the players.

- Rule 22.1 of the AFL Anti-Doping Code 2015 outlines what players can and cannot do whilst ineligible. It provides:

  "(a) No Player or other Person who has been declared Ineligible may, during the period of Ineligibility, participate in any capacity in an AFL Competition or activity (other than authorised Anti-Doping education or rehabilitation programs) authorised by the AFL, Affiliated State or Territory Body or AFL Clubs, any Signatory or Signatory's member organisation or a club or other member organisation of a Signatory's member organisation, or in competitions authorised or organised by any professional league or any international or national level event organisation or any elite or national-level sporting activity funded by a government agency."

- Whilst ineligible a player also remains subject to testing.

- The comment to Rule 22.1 of the AFL Anti-Doping Code provides further guidance as to what players can and cannot do:

  > "For example, subject to clause 22.2, an Ineligible Player cannot participate in a training camp, exhibition or practice. The term 'activity' also includes, for example, administrative activities, such as serving as an official, director, officer, employee, or volunteer of the organisation described in this clause. Ineligibility imposed in one sport shall also be recognised by other sports."

- A player is allowed to return to training prior to their sanction ending. Essendon players can return to training in the last 2 months of their sanctions.

- There is no impediment to players seeing each other socially or engaging in other recreational activities. The players are allowed to train together as a group, provided however, that they do not train with other people who are covered by the AFL Code or use other AFL or club facilities.

- If a player violates the conditions surrounding their period of ineligibility, a new period of ineligibility equal in length to the original period of ineligibility will be added to the end of the original period of ineligibility.

- In addition to the sanctions listed above, some or all sport-related financial support or other sport related financial

support or other sport related benefits will be withheld by the AFL, AFL club and governments. There is no express provision in anti-doping rules that says that players cannot receive forms of payments whilst ineligible.

- ASADA has provided advice directly to the AFL, the Essendon Football Club and the AFL Players Association at various stages.

- ASADA is aware of media reports that suspended player Brent Prismall is working in a player welfare role at the Western Bulldogs AFL team.

s47E(d), s45

[redacted]

Author: s22 [redacted]

Executive Clearance: s22 [redacted]

Date Cleared: 2 March 2016

ADDITIONAL ESTIMATES HEARING– 10 FEBRUARY 2016

Brief Number 7

Brief Title: NO SIGNIFICANT FAULT – APPLICATION TO THE ESSENDON CASE

KEY POINTS

- ASADA, as with other anti-doping organisations, will from time to time discuss possible penalties with relevant stakeholders including the players, their legal representatives, and the sport themselves.
    - We owe it to the Australian tax payer to do this.

- It is important to note that ASADA does not determine sanctions for athletes. Sanctions are normally determined by the relevant sport. It is not uncommon for me as CEO to recommend to a sport that athletes should receive a certain sanction.

- In relation to the Essendon players, discussions on penalties were had with relevant parties in both June 2014 and November 2014 in an attempt to resolve this issue before infraction notices were issued and the matter went before the AFL Tribunal for hearing.

- Once a player elects to have a hearing, it is ASADA's job to put forward relevant evidence, and it is the player's job to prove they are entitled to a reduction in sanction on the basis of no significant fault or negligence.

- It is outside of ASADA's control what sanction a tribunal will find appropriate at that stage, but it is important to note that the Court of Arbitration for Sport determination found there were very little grounds to substantiate such a claim.

- As the Court of Arbitration for Sport also correctly pointed out, my recommendations about sanctions does not bind it.

BACKGROUND

- On 12 January 2016, the Court of Arbitration for Sport handed down an Award in relation to a matter involving 34 past and present Essendon players. The CAS found that the players could not satisfy the criteria for No Significant Fault or Negligence.

- No significant Fault or Negligence is not determined according to ordinary usage of whether you think someone is to blame, but is a defined term with a very specific meaning in anti-doping polices. The reduction is only meant to apply in truly exceptional circumstances.

- In assessing whether No Significant Fault or Negligence applies you must have regard to whether a player did not know, or could not reasonably have known or suspected even with the exercise of utmost caution that they were using a prohibited substance. Taking that criteria into account you then have to look at the totality of the circumstances and see whether the player's fault was not significant in relationship to the anti-doping rule violation.

s47E(d), s45

- The 34 past and present Essendon players elected not to accept the sanction recommendation and admit to anti-doping rule violations. Instead, they elected to have a tribunal hearing in relation to their matters. This election relates not only to whether they have committed anti-doping rule violations but also as to what sanction should apply.

- Rule 14.4 of the AFL Anti-Doping Code (which was in place at the time of the alleged violations) requires a player to establish in an individual case that he bears No Significant Fault or Negligence.

- The AFL Anti-Doping Tribunal did not consider the issue of player sanctions. At the CAS hearing, which dealt with questions of violations and sanctions together, and where WADA was also a party, the players were unable to establish the defence of No Significant Fault or Negligence to the tribunal's satisfaction.

Author: s22 [redacted]

Executive Clearance: s22 [redacted]

Date Cleared: 27 January 2016

Attachment A.

s47E(d), s45

[redacted]

s47E(d), s45

[redacted]

ADDITIONAL ESTIMATES HEARING– 10 FEBRUARY 2016

Brief Number 8

Brief Title: SHOW CAUSE NOTICES – HIRD AND ROBINSON

KEY POINT

- We are not going to discuss the status of individuals while related cases are still being heard and the statute of limitations is ten years.

BACKGROUND

s47E(d) [redacted]

- Whilst ASADA does have some evidence in relation to Mr Robinson and his close relationship with Mr Dank, s47E(d) [redacted]

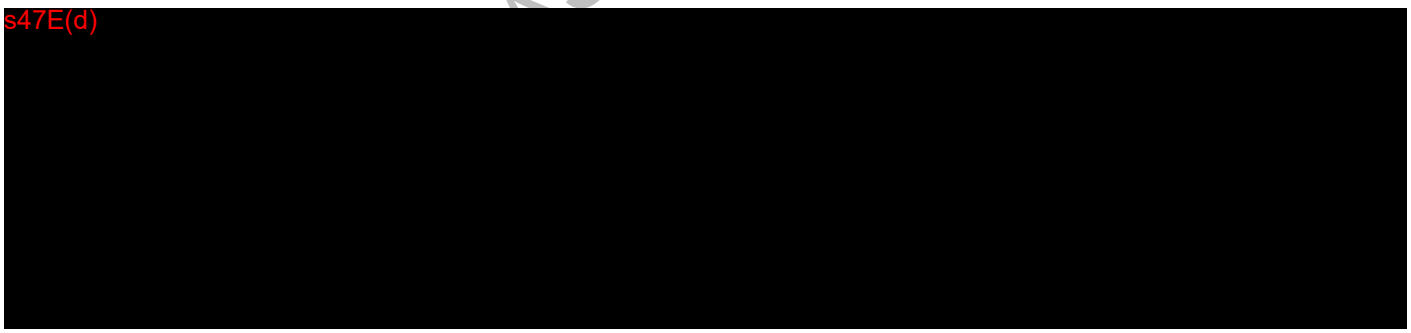
- Similarly, the Court of Arbitration for Sport decision on 12 January 2016, did not make any specific factual findings in relation to Hird or Robinson that would assist ASADA in commencing a case.

- During the sports tribunal process it was not possible to compel witnesses to provide evidence and be cross-examined. That is not the case the Australian Courts.

- Mr Dank has a defamation proceeding against Nationwide News going to a hearing in the NSW Supreme Court in late February 2016. It is possible Mr Dank or others may have to provide evidence at such a hearing. It is also possible (although perhaps unlikely) that Mr Dank or other key witnesses may provide evidence at any hearing of the AFL Appeal Board.

- Mr Dank and other key witnesses may provide evidence that implicates Mr Hird and/or Mr Robinson in the Essendon supplements matter.

s47E(d)



- The statute of limitation period under the World Anti-Doping Code and AFL Anti-Doping Code is 10 years.

- It is prudent for ASADA to monitor the outcome of upcoming litigation as evidence to Mr Robinson and Mr Hird's knowledge and intent may come to light.

Author: s22 [redacted]

Executive Clearance: s22 [redacted]

Date Cleared: 27 January 2016

ADDITIONAL ESTIMATES HEARING— 10 FEBRUARY 2016

Brief Number 9

Brief Title: ASADA ANTI-DOPING POLICY TEMPLATE

KEY POINTS

- The legality of ASADA's investigations has been challenged time and time again in the Federal Court and the Administrative Appeals Tribunal – and each time we have been found to have acted lawfully.

- In ASADA's view the anti-doping policy template does not seek to give ASADA a coercive power that parliament denied to it. The provision in the Policy is enforceable by a sport (and not ASADA) and would be consistent with the Federal Court's ruling in the Essendon/Hird cases.

  [*only if asked specifically on the anti-doping policy preamble*]

- The preamble in ASADA's anti-doping policy does not mislead athletes and does not require change. In other words, if an athlete refuses to answer ASADA's questions, the sport can take disciplinary action for breach of the policy.

BACKGROUND

- ASADA received an advice from Counsel (Tom Howe QC) s42 [redacted]

- At the 2015 ANZSLA conference, a paper entitled "Is ASADA playing by the rules" (the Article) was awarded the Paul Trisley Award. The award is given to the person judged as submitting the best academic paper on a sports law topic each year in accordance with the competition criteria.

- The author, Adelaide barrister Mr Anthony Crocker, presented a summary of his paper at the ANZSLA conference in Melbourne on 16 October 2015 and the paper was published in the December 2015 edition of the Australian and New Zealand Sports Law Journal.

- The paper looks specifically at clause 6A.2.3 of the Anti-Doping Policy template, which states:

> "6A.2.3
>
> All *Persons* bound by this Anti-Doping Policy and *the sporting administration body* must assist, cooperate, and liaise with *ASADA* in relation to any investigation into a potential *anti-doping rule violation* (or *the sporting administration body* where it has approval by *ASADA* to conduct its own investigation or be involved in an *ASADA* investigation). Specifically, all *Persons* must cooperate with and assist *ASADA* or *the*

sporting administration body (where relevant), including by:

a) attending an interview to fully and truthfully answer questions;
b) giving information; and
c) producing documents or things,

in an investigation being conducted by *ASADA* or *the sporting administration body* (where relevant), even if to do so might tend to incriminate them or expose them to a penalty, sanction or other disciplinary measure.

For the avoidance of doubt, the common law privileges against self-incrimination and self-exposure to a penalty are abrogated by this Article."

- The article was initially included at the request of the Australian Olympic Committee who amended its anti-doping by-law in August 2013 to include this provision.
    - This article was mandatory for adoption by Olympic sports.
    - The article now appears in most of the current anti-doping policies.

- The main issues raised by the Crocker article are:
    - the clause in the Anti-Doping Policies goes above the powers envisaged by the ASADA Act 2006 as it abrogates a person's right to self-incrimination even

where they attend an interview with a representative from ASADA or the sport in question. As such ASADA is giving itself a power through the backdoor that parliament denied to ASADA.

- by including a statement in the preamble to the anti-doping policy that “This Anti-Doping Policy is adopted and implemented by the Sporting administration body in accordance with ASADA’s and the Sporting administration body’s responsibilities under the World Anti-Doping Code, the Australian Sports Anti-Doping Authority Act 2006 (Cth), the Australian Sports Anti-Doping Authority Regulations 2006 (Cth) (including the National Anti-Doping scheme), and in furtherance of combined ongoing efforts to eradicate doping in sport in Australia” will have misled athletes.

s42 [redacted]

s42 [redacted]

s42 [redacted]

s42 [redacted]

Author: s22 [redacted]

Executive Clearance: s22 [redacted]

Date Cleared: 27 January 2016

ADDITIONAL ESTIMATES HEARING– 10 FEBRUARY 2016

Brief Number 13

Brief Title: Cronulla Sharks Players x 5

KEY POINTS

- ASADA has provided the NRL with all of the evidence in relation to these matters and understands that the NRL is considering issuing Infraction Notices to players.

- ASADA expects the NRL will issue Infraction Notices to the players concerned in the near future with the matters being resolved shortly thereafter.

BACKGROUND

- The Cronulla Sharks x 5 players are:
  - Paul Aiton (Leeds Rhinos);
  - Colin Best (retired);
  - Stuart Flanagan (Appin Dogs);
  - Ben Pomeroy (Catalans); and
  - John Williams (retired).

- The possible ADRVs are Use or Attempted Use of CJC-1295 and/or GHRP6 between about March 2011 and April 2011.

s47E(d)

[redacted]

s47E(d)

[redacted]

s47E(d)

[redacted]

- The 12 Cronulla Players who were sanctioned for doping offences were:
    - Josh Cordoba (London Broncos);
    - Luke Douglas (Gold Coast Titans);
    - Paul Gallen (Cronulla Sharks);
    - Nathan Gardner (Cronulla Sharks);
    - Wade Graham (Cronulla Sharks);
    - Albert Kelly (Gold Coast Titans);
    - John Morris (retired);
    - Tim Smith (Wakefield Wildcats);
    - Kade Snowden (Newcastle Knights);
    - Anthony Tupou (Cronulla Sharks);
    - Broderick Wright (retired); and

  Matthew Wright (North Queensland Cowboys),

  these players received twelve (12) month sanctions backdated to commence on 23 November 2013.

Author: s22 [redacted]

Executive Clearance: s22 [redacted]

Date Cleared: 28 January 2016

Take Home Messages

- Check **EVERYTHING** through the club doctor
- Declare all medications on the drug testing documents
- The ASADA Hotline and website are backups
- www.asada.gov.au
- 13000 ASADA (13000 27232)

AUSTRALIAN FOOTBALL LEAGUE

2012

Take home messages:

- Check **EVERYTHING** through your club doctor.
- Be aware of what supplements your taking
- Use ASADA resources for additional information:

www.asada.gov.au

13000 ASADA (13000 27232)

(b) there be laid on the table by the Minister representing the Minister for the Environment (Senator Birmingham), no later than 3.30 pm on 10 May 2016, a copy of the government's response to the report of the Select Committee on Wind Turbines, dated August 2015.

*1157 **Senators Madigan, Leyonhjelm, Day, Lambie, Wang and Xenophon, Leader of the Glenn Lazarus Team (Senator Lazarus) and Senator Muir:** To move—That there be laid on the table by the Minister representing the Minister for Sport (Senator Nash), no later than 4 pm on Friday, ~~22 April~~ 6 May 2016, a copy of the following documents relating to the Australian Sports Anti-Doping Authority (ASADA) and the National Anti-Doping Framework:

(a) the 4 March 2014 final report by ASADA investigator, Mr Aaron Walker, on the ASADA investigation known as 'Operation Cobia' into the Essendon Football Club's 2012 player supplements program;

(b) the independent review of Operation Cobia conducted by former judge of the Federal Court of Australia, Mr Garry Downes, and commissioned by the former Minister for Sport, Mr Dutton;

(c) the report of the independent review of ASADA commissioned by the former Minister for Sport, Ms Ellis, the existence of which was reported by journalist, Mr Sean Parness, in *The Australian* on 10 July 2009;

(d) the decision of the Australian Football League (AFL) Anti-Doping Tribunal signed by chairman Mr David Jones and members Mr John Nixon and Mr Wayne Henwood, dated 31 March 2015, which cleared 34 Essendon footballers who played for the club during the 2012 AFL season of an alleged violation of the 1 January 2010 AFL Anti-Doping Code;

(e) the October 2013 report to ASADA management in which ASADA investigators reportedly detailed a strong case against Gold Coast Suns footballer Mr Nathan Bock and high performance manager Mr Dean Robinson over the use of banned peptide CJC–1295;

(f) all documentation in the possession or control of ASADA, the Minister or her department, whether held electronically or in hardcopy, that relates to ASADA's subsequent decision not to pursue anti-doping rule violations against Mr Bock and Mr Robinson including, but not limited to, all correspondence, file notes, minutes, memoranda, agreements, decisions, reports, and any other form of document whatsoever relating to this issue; and

(g) all documentation in the possession or control of ASADA, the Minister or her department, whether held electronically or in hardcopy, that relates to ASADA's decision to reopen its investigation into former AFL footballer, Mr Bock, including, but not limited to, all correspondence, file notes, minutes, memoranda, agreements, decisions, reports, and any other form of document whatsoever relating to this issue.

*1158 **Leader of the Opposition in the Senate (Senator Wong):** To move—That the resolution of the Senate relating to the meetings of the Senate be varied by omitting paragraph (3), and substituting the following paragraph:

"(3) That the hours of meeting for Tuesday, 3 May 2016, be from 12.30 pm to 6.30 pm and 8.30 pm to adjournment, and for Wednesday, 4 May 2016, be from 9.30 am to 7.20 pm and 8 pm to adjournment, and that:

(a) the routine of business from 8.30 pm on Tuesday, 3 May 2016, shall be:

Document 3.3

Media correction: Gold Coast investigation

12 April 2016

A number of statements made by journalist Chip Le Grand in the last 24 hours have been factually incorrect.

Under our legislation, ASADA cannot provide details about the investigation of an individual, which includes the specifics of any evidence in an individual's case. However, ASADA would like to correct the record on the following statements:

"The Australian can reveal ASADA's investigators, in the same confidential report that recommended charges against Bock in October 2013..."

The role of the report was to investigate potential anti-doping rule violations. No recommendations were made. The evidence in the report was considered by the CEO. ASADA does not use its funding to pursue cases it does not think it can win.

"The strength of ASADA's case against Bock is its reliance on direct witness accounts. There is no dispute among the witnesses over what Bock was given and whether he took it."

This is factually incorrect. There are numerous inconsistencies in the witness evidence gathered by ASADA in relation to the Gold Coast matter, and these inconsistencies were unable to be resolved by corroborating evidence.

"The only question ASADA has to ask itself is in the first instance is, is there a possibility that Nathan bock took a banned substance. That is the test for whether or not you refer it to the anti-doping review panel."

This is simply not true. In addition to the possibility of a violation having occurred, the ASADA CEO must also be satisfied that action against the athlete is warranted before the CEO issues a show cause notice to any athlete. These steps occur before the matter is referred to the panel.

When determining whether action is warranted, an important element to consider is whether or not there is sufficient evidence to sustain the charge.

To prove that an athlete has used a prohibited substance, ASADA must be able to prove the substance used by that athlete. ASADA will not bring a use case forward when there is insufficient evidence of the substance used.

In cases of 'attempted use', the anti-doping agency must be able to prove the intent of the athlete to use a prohibited substance. This cannot be done in the absence of compelling, reliable evidence.

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Document 3.4

Australian Government

Australian Sports Anti-Doping Authority

ASADA response to allegations of hypocrisy

9 April 2016

In response to articles published in the Herald Sun today, the Australian Sports Anti-Doping Authority (ASADA) would like to make it clear that decisions about which cases to take forward are made on the basis of evidence.

ASADA pursues those cases where there is a strong body of evidence and those cases where ASADA believes they can be proven to comfortable satisfaction.

Allegations against AFL players are heard in the first instance by the AFL Tribunal. We note that the Tribunal was not comfortably satisfied that Mr Dank had trafficked CJC-1295 to the Gold Coast in 2010. The Tribunal was comfortably satisfied that Mr Dank had attempted to traffick CJC-1295, however the Tribunal was not comfortably satisfied that the substance believed to be CJC-1295 was in fact the prohibited substance
CJC-1295.

ASADA chose not to appeal those findings. Allegations need to be corroborated with other evidence to be proven. In the matter of the Gold Coast Suns, despite thorough investigations, there was insufficient supporting evidence.

In comparison, other cases pursued as a result of Operation Cobia have been supported by an accumulation of convincing evidence including scientific analyses, corroborating statements from multiple parties and text messages discussing prohibited substances.

ASADA has no vendetta against any club or person, and history has shown we are not afraid of taking on the tough cases. But to take on the hard cases we require sufficient evidence.

ASADA investigated a number of players and clubs as part of Operation Cobia, but that does not mean that there was reliable, or substantial, evidence of violations in all these matters.

ASADA is committed to clean sport and will continue to pursue those cases where there is sufficient evidence, without fear or favour.

Tags: Cobia (/tags/cobia)

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(mailto:?subject=ASADA%20response%20to%20allegations%20of%20hypocrisy&body=https%3A//www.asada.gov.au/news/asada-response-allegations-hypocrisy)

BUDGET ESTIMATES HEARING—6 MAY 2016

Brief Number 2

Brief Title: Status of Thymosin Beta 4

KEY POINTS

WHERE IS THYMOSIN BETA 4 SPECIFICALLY MENTIONED ON THE PROHIBITED LIST?

- Substances are included on the Prohibited List by name or by class.

- The substance Thymosin Beta 4 is included on the Prohibited List because it is a substance that is a growth factor affecting muscle, tendon or ligament, vascularization and regenerative capacity.

- The substance Thymosin Beta 4 is specifically caught in that wording and ASADA has provided to the Senate the full scientific report that we tendered to the AFL Tribunal that demonstrates the specific wording of the Prohibited List that captures Thymosin Beta 4.

If pushed:

- The Prohibited List cannot specifically name every substance, particularly when those substances are not approved for

human use. The Prohibited List specifically catches substances due to its description of substances that are banned such as 'growth factors".

BACKGROUND

- At the last Estimates hearing, Senator Madigan asked a question in relation to where TB4 is specifically mentioned on the WADA Prohibited List.

- ASADA provided answers to Questions on Notice (SQ16-000248 and SQ16-000276) which directed the Senator to the wording on the list that specifically captured Thymosin Beta 4 and included attachments concerning ASADA's Prohibited Substances (*Attachment 1*).

ALLEGATION THAT MR MCDEVITT MISLED THE SENATE IN HIS ANSWERS AT THE LAST ESTIMATES.

- Allegations that I have misled the Senate are very serious in nature. I do not intend to respond to such allegations on the run in this hearing. Should any Senator believe that I have misled the Committee then they can ask the Chair to take the appropriate action.

BACKGROUND

- At the last estimates you said:

  "They should have gone to the website where you can look up the substances that are banned but we have no evidence that any of them did. They did not make the inquiries."

- Your statement accurately reflects the findings of the Court of Arbitration for Sport on the matter. The public CAS decision on page 37 at paragraph 155 states:

  "…

  (ii) No Player appears to have made use of the WADA hotline or indeed any other hotline.

  (iii) No player appear to have conducted internet searches for Thymosin or to have made any other inquiry as to its elements or properties.

  (iv) No player asked the Club doctor – the obvious first port of call – for advice about Thymosin…"

- Players who searched ASADA's Check Your Substances website for Thymosin or Thymosin Beta 4 would all have been provided with a unique identification number that would prove categorically that they had performed a search of a substance. ASADA has never been provided or seen any receipt number evidencing any search conducted by any of the suspended 34 past and present Essendon players.

  <u>If it is suggested that Essendon players had no way of finding out that Thymosin or Thymosin Beta 4 was banned</u>

- If a player could not find a substance they were looking for on the ASADA's website they were also provided with ASADA's contact details.

- None of the 34 past and present Essendon players called ASADA to check the status of Thymosin.

- Essendon players were given education sessions in 2011 and 2012 by the AFL. In both years players were told to:

    - "Check **EVERYTHING** through the club doctor"; and
    - Were provided with the ASADA hotline number as an additional resource. (the relevant pages from 2011 and 2012 education sessions are **attached**).

- The CAS decision also makes it clear that no player asked the club doctor about Thymosin or Thymosin Beta 4 – that is why they were negligent.

Author: s22 [redacted]

Executive Clearance: s22 [redacted]

Date Cleared: 5 May 2016

Senate Community Affairs Committee

ANSWERS TO ESTIMATES QUESTIONS ON NOTICE

HEALTH PORTFOLIO

Additional Estimates 2015 - 16, 3 March 2016

Ref No: SQ16-000248

OUTCOME: 10 - Sport and Recreation

Type of Question: Written Question on Notice

Senator: Madigan, John

Question:

Can ASADA please supply documentation that clearly shows Essendon players had clear and unambiguous access to the WADA banned substances list at the time the alleged offences took place that showed the substance Thymosin beta-4 was on the WADA banned list.

Answer:

1. The World Anti-Doping Code mandates that the World Anti-Doping Agency (WADA) publish an annual list of Prohibited Substances and Methods. This is known as the 'Prohibited List'. The Prohibited List has been published by WADA since 2004.

2. The current Prohibited List is published on WADA's website at https://www.wada-ama.org/en/resources/science-medicine/prohibited-list. Archived versions of the Prohibited List for each year since 2004 are accessible via the same link.

3. In addition to internet publication, WADA also makes the Prohibited List available for mobile devices with free applications available for download. The ASADA website also contains an information page about the Prohibited List with a link to the Prohibited List at https://www.asada.gov.au/substances/prohibited-substances-and-methods.

4. For copies of the Prohibited List, please refer to SQ16-000276.

5. AFL players are provided with annual education sessions from the AFL to assist them in their understanding of their obligations under the AFL Anti-Doping Code.

PDR Number	**SQ16-000248**
Subject	**WADA Prohibited List**
Questioner	**Senator Madigan**
Contact Officer	s22 [redacted]
Clearance Officer	
Agency	**Australian Sports Anti-Doping Authority**

Noted

_____ _____

Adviser / Minister Date

Senate Community Affairs Committee

ANSWERS TO ESTIMATES QUESTIONS ON NOTICE

HEALTH PORTFOLIO

Additional Estimates 2015 - 16, 3 March 2016

Ref No: SQ16-000258

OUTCOME: 10 - Sport and Recreation

Type of Question: Written Question on Notice

Senator: Peris, Nova

Question:

What discussions did the Minister for Sport or her office have with ASADA regarding the Essendon Doping Case, the decision not to appeal the AFL Anti-Doping Tribunal decision or the results of the Court of Arbitration for Sport decision?

Answer:

ASADA has had general discussions only with the Minister for Sport and/or her office in relation to the decision to not appeal the Essendon decision from the AFL Anti-Doping Tribunal or the results of the Court of Arbitration for Sport decision.

ASADA did not consult with or otherwise involve the Minister for Sport and/or her office in any decision it made to refrain from appealing the Essendon decision from the AFL Anti-Doping Tribunal. Further, ASADA did not consult or involve the Minister for Sport and/or her office in relation to decisions made by ASADA in relation to the World Anti-Doping Agency's appeal to the Court of Arbitration for Sport.

PDR Number	**SQ16-000258**
Subject	**Discussions with Minister regarding Essendon cases**
Questioner	**Senator Peris**
Contact Officer	s22 [redacted]
Clearance Officer	
Agency	**Australian Sports Anti-Doping Authority**

Noted

_____ _____

Adviser / Minister Date

Senate Community Affairs Committee

ANSWERS TO ESTIMATES QUESTIONS ON NOTICE

HEALTH PORTFOLIO

Additional Estimates 2015 - 16, 3 March 2016

Ref No: SQ16-000271

OUTCOME: 10 - Sport and Recreation

Type of Question: Hansard page 22

Senator: Back, Chris

Question:

Senator BACK: Thank you, Senator Di Natale, that is fine. The advice to me was that they did receive assurance in writing from the Essendon Football Club that the product they were to be given was legal. Can you respond to that or can you take that on notice and advise the committee whether or not my assumption is accurate? Mr McDevitt: I am not aware of that. I will take it on notice.

Answer:

The Essendon players were provided with a form titled 'Patient Information/Informed Consent Form' from Stephen Dank. The document was not on an Essendon letterhead and did not mention the Essendon Football Club.

A copy of a redacted Patient Information/Informed Consent Form signed by an Essendon player giving consent to injections of "Thymosin" is **attached**.

The document states that "All components of the intervention/s are in compliance with current WADA anti-doping policy and guidelines (see appendix for documentation to this effect) as of 1st January 2012". No appendix was located from Essendon computer servers or files during ASADA's investigation. Moreover, players who were asked by ASADA investigators about the appendix did not recall seeing any appendix with the form.

The consent form also asserts that:

"I base this recommendation on the visual examination(s) I have performed, on x-rays, models, photos and other diagnostic tests that have been taken, and on my knowledge of your medical and physiological history."

In their interviews, players also stated that they signed the forms despite no visual examinations being performed on them, and in the absence of x-rays, models, photos or other diagnostic tests. Nor were any players asked about their medical or physiological history.

PDR Number	**SQ16-000271**
Subject	**Assurance in writing from Essendon Football Club**
Questioner	**Senator Back**
Contact Officer	s22 [redacted]
Clearance Officer	
Agency	**Australian Sports Anti-Doping Authority**

Noted

_____ _____

Adviser / Minister Date

Patient Information/Informed Consent Form

This information is provided to help you understand the intervention that is being recommending for you. Before you begin the intervention, I want to be certain that I have provided you with enough information in a way you can understand, so that you're well informed and confident that you wish to proceed. This form will provide some of the information. I will also have a discussion with you.

PLEASE BE SURE TO ASK ANY QUESTIONS YOU WISH. It's better to ask them now, than wonder about it after we start the intervention.

Nature of the Recommended Intervention: Thymosin Injection - .5 ml – 3000 mg per ml.

The recommendation for the following intervention for you:

1 Thymosin injection once a week for six weeks and then 1 injection per month.

I base this recommendation on the visual examination(s) I have performed, on any x-rays, models, photos and other diagnostic tests that have been taken, and on my knowledge of your medical and physiological history. I have also taken into consideration any information you have given me about your needs and wants.
The intervention is recommended because enhance the rate of recovery.
The benefits of this treatment are an expected reduction in the time required for performance recovery.
The prognosis, or chance of success, of the treatment is considered to be very based on empirical research.

The risks of the treatment are nil as reported by the company safety data and no adverse events have been reported in the literature.
I expect that it will take approximately all season (pre- and in competition) to complete the intervention, but it could be shorter or longer based on what we experience as the intervention progresses.

WADA Compliant Anti-Doping Policy

All components of the intervention/s are in compliance with current WADA anti-doping policy and guidelines (see appendix for documentation to this effect) as of 1st January 2012.

Alternative Treatments:

There are some alternative ways to intervene. I have chosen the one that I think best suits your needs. However, there are other ways that your condition can be treated, including dietary and protein based supplements.

If you have any questions about these alternatives, or about any other treatments you have heard or thought about, please ask.

Risks Of The Recommended Treatment

No intervention is completely risk free. I will take reasonable steps to limit any complications of the intervention I have recommended. However, there are some complications that tend to occur with some regularity. To this point there never a reported adverse event ever reported and no clinical complications have ever been identified.

If you have any questions about these complications, or about any other complications you have heard or thought about, please ask. I believe that the intervention will be most successful when you understand as

If you have any questions about these complications, or about any other complications you have heard or thought about, please ask. I believe that the intervention will be most successful when you understand as much as possible about it, because you will be able to provide more information to me and to ask better questions. No question is too simple to ask and I have as much time to answer them as you need. When you feel you can make on educated decision about this recommendation, then we can get started with treatment.

Acknowledgment

I_ _____, have received information about the proposed intervention. I have discussed my intervention with Mr Stephen Dank and have been given an opportunity to ask questions and have them fully answered. I understand the nature of the recommended intervention, alternate treatment options, and the risks of the recommended intervention.

I wish to proceed with the recommend intervention.

Signed:_ _____

s22 [redacted]

ANSWERS TO ESTIMATES QUESTIONS ON NOTICE

HEALTH PORTFOLIO

Additional Estimates 2015 - 16, 3 March 2016

Ref No: SQ16-000272

OUTCOME: 10 - Sport and Recreation

Type of Question: Hansard page 23

Senator: Back, Chris

Question:

Senator BACK: We know the 21 were tested. We know the 13 were not tested. Is that correct? Am I right in that summary? You mentioned 21 out of 34. Mr McDevitt: You are arriving at a number of 13, but your number may actually be higher than that. I am not sure exactly how many times players might have doubled up. Senator BACK: Perhaps you could take it on notice.

Answer:

During 2012, ASADA conducted 51 urine tests and 55 blood tests on Essendon Football Club players. Of the samples that ASADA had collected and analysed during the relevant time period for our investigation, there were 26 urine samples in our long term storage facility at the National Measurement Institute from 15 players in the group of 34 Essendon players. A breakdown of the number of urine samples in the long term storage facility for each of the players in the Essendon 34 is provided below in a de-identified form:

Player (de-identified)	Number of samples in long term storage for the relevant time period
Player 1	1
Player 2	4
Player 3	1
Player 4	4
Player 5	1
Player 6	1
Player 7	1
Player 8	4
Player 9	2
Player 10	1
Player 11	1
Player 12	1
Player 13	2
Player 14	1
Player 15	1
Total = 15 Players	**Total = 26 samples**

PDR Number	**SQ16-000272**
Subject	**Samples collected from Essendon players**
Questioner	**Senator Back**
Contact Officer	s22 [redacted]
Clearance Officer	
Agency	**Australian Sports Anti-Doping Authority**

Noted

_____ _____

Adviser / Minister Date

Senate Community Affairs Committee

ANSWERS TO ESTIMATES QUESTIONS ON NOTICE

HEALTH PORTFOLIO

Additional Estimates 2015 - 16, 3 March 2016

Ref No: SQ16-000273

OUTCOME: 10 - Sport and Recreation

Type of Question: Hansard page 23

Senator: DiNatale, Richard

Question:

Senator DI NATALE: What is the evidence that this improves recovery? Mr McDevitt: —so the fact that you can train harder and if you recover more quickly then, yes, you can get bigger and stronger. Senator DI NATALE: What is the evidence that it improves recovery? Mr McDevitt: I will have to take that on notice. What I can say to you— Senator DI NATALE: You are making claims about what effect this— Mr McDevitt: It is promoted globally and it is distributed and trafficked globally because it is believed that it promotes recovery and, as I said to you, if you can recover more quickly you can train harder and you can get bigger and stronger, and that was the aim.

Answer:

Please refer to the answer provided in response to SQ16-000276.

PDR Number	**SQ16-000273**
Subject	**Evidence that Thymosin Beta 4 improves recovery**
Questioner	**Senator Di Natale**
Contact Officer	s22 [redacted]
Clearance Officer	
Agency	**Australian Sports Anti-Doping Authority**

Noted

_____ _____

Adviser / Minister Date

Senate Community Affairs Committee

ANSWERS TO ESTIMATES QUESTIONS ON NOTICE

HEALTH PORTFOLIO

Additional Estimates 2015 - 16, 3 March 2016

Ref No: SQ16-000274

OUTCOME: 10 - Sport and Recreation

Type of Question: Hansard page 25

Senator: Seselja, Zed

Question:

CHAIR: Can I ask one quick one? Just for clarification: you said that thymosin beta-4 is on the banned list. Why is it on the banned list? Is it because it has not been tested or because it is known to be performance enhancing and unsafe? Mr McDevitt: I would have to take it on notice. I suspect it will be a combination of both. I suspect it will be because it has not gone through a clinical trial—so it has not been determined to be fit for human consumption—on the one hand and, on the other, early science has most likely indicated that it does enhance performance. I suspect that for those two reasons it has probably been put on the banned list, but I will come back to you if that is wrong.

Answer:

Please refer to the answer provided in response to SQ16-000276.

PDR Number	**SQ16-000274**
Subject	**Why is Thymosin Beta 4 on the Prohibited List**
Questioner	**Senator Seselja**
Contact Officer	s22 [redacted]
Clearance Officer	
Agency	**Australian Sports Anti-Doping Authority**

Noted

_____ _____

Adviser / Minister Date

Senate Community Affairs Committee

ANSWERS TO ESTIMATES QUESTIONS ON NOTICE

HEALTH PORTFOLIO

Additional Estimates 2015 - 16, 3 March 2016

Ref No: SQ16-000275

OUTCOME: 10 - Sport and Recreation

Type of Question: Hansard page 31

Senator: Peris, Nova

Question:

Senator PERIS: Did you say that came into play in 2006? Mr McDevitt: I would have to double-check. The first iteration of the WADA Code came out in 2003. Our legislation was passed in 2006. I would have to take on notice when the list itself was first brought about.

Answer:

The Prohibited List has been published by the World Anti-Doping Agency since 2004.

PDR Number	**SQ16-000275**
Subject	**WADA Prohibited List creation date**
Questioner	**Senator Peris**
Contact Officer	s22 [redacted]
Clearance Officer	
Agency	**Australian Sports Anti-Doping Authority**

Noted

_____ _____

Adviser / Minister Date

Senate Community Affairs Committee

ANSWERS TO ESTIMATES QUESTIONS ON NOTICE

HEALTH PORTFOLIO

Additional Estimates 2015 - 16, 3 March 2016

Ref No: SQ16-000276

OUTCOME: 10 - Sport and Recreation

Type of Question: Hansard page 31

Senator: Madigan, John

Question:

Senator MADIGAN: Mr McDevitt, you refer to this WADA list of banned substances. I have been trying to find where this list is. For the benefit of the committee, could you point us to where this list is, because I am having difficulty finding this list that you have referred to tonight. Mr McDevitt: I will give you the link. Senator MADIGAN: Also, for the benefit of the committee, is ASADA able to furnish the committee with screen shots of the banned substances over the past five years, between 2010 and the present day? Mr McDevitt: Essentially that will be copies of the list. Yes, I think we can get that for you. Senator MADIGAN: And also tell us where we can get those ourselves— Senator MADIGAN: Could you show us where TB4 is specifically mentioned on those lists of WADA from 2010 to the present day? Mr McDevitt: I will take that on notice.

Answer:

1. The World Anti-Doping Code mandates that the World Anti-Doping Agency (WADA) publish an annual list of Prohibited Substances and Methods called the 'Prohibited List'. The Prohibited List has been published by WADA since 2004.

2. The current Prohibited List is published on the WADA website at https://www.wada-ama.org/en/resources/science-medicine/prohibited-list. Archived versions of the Prohibited List for each year since 2004 are also published at the same link. In addition to internet publication, WADA also makes the Prohibited List available for mobile devices with free applications available for download. The ASADA website also contains an information page about the Prohibited List with a link to the Prohibited List at https://www.asada.gov.au/substances/prohibited-substances-and-methods.

3. Copies of the WADA Prohibited List for 2010-2016 (inclusive) are also **attached**.

4. The substance Thymosin Beta 4 is prohibited under category S2 of the Prohibited List. It is a growth factor affecting muscle, tendon or ligament, vascularisation and regenerative capacity. The substance is also prohibited under category S0 of the Prohibited List as it has never been approved by any regulatory agency for human therapeutic use.

5. The AFL Tribunal itself was comfortably satisfied that the substance Thymosin Beta 4 was at the relevant time a prohibited substance – see the link to the Tribunal's public statement at http://www.afl.com.au/news/2015-03-31/full-tribunal-statement, which is also **attached**.

6. In coming to its conclusion, the Tribunal considered the expert report prepared by Professor David Handelsman. The report is **attached.**

7. Had players performed an internet search at the relevant time, they would have found that the substance Thymosin Beta 4 was not approved for human use.

Document 3.15

Full statement from the AFL's Anti-Doping Tribunal

March 31, 2015 2:24 PM

The Tribunal today handed down its decision, which was unanimous, and reasons for the decision with respect to the alleged violation by 34 players of the AFL Anti-Doping Code.

The Tribunal was comfortably satisfied that the substance Thymosin Beta-4 was at the relevant time a prohibited substance under the Code.

The Tribunal was not comfortably satisfied that any player was administered Thymosin Beta-4.

The Tribunal was not comfortably satisfied that any player violated clause 11.2 of the AFL Anti-Doping Code.

The Tribunal's decision in relation to the violations under the Code alleged against a former Essendon support person will be handed down at a later date, together with reasons for that decision.

The Tribunal's decision and reasons have been provided to the parties in accordance with the function performed by the Tribunal. That function does not include the provision of the decision and reasons to other persons. Any publication of the Tribunal's decision and reasons is a matter for the parties.

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David J Handelsman *MB BS FRACP PhD*
Professor of Reproductive Endocrinology and Andrology
Director

3 December 2014

Report on Doping Status of Certain Peptides

This report is an expert statement on background physiology and pharmacology including the basis for prohibition under Prohibited List of the following areas and substances

- Regulation of growth hormone (GH) secretion
- Growth hormone releasing-peptide (GHRP-6)
- Hexarelin
- CJC-1295
- Thymosin beta-4
- SARM S22
- IGF-2
- Follistatin

This report will make preliminary comments to set the context for the subsequent detailed summaries on physiology, pharmacology and potential performance enhancing effects for each of these substances.

My relevant professional expertise is summarised in an appendix.

I confirm that this report is based on my professional expertise. I acknowledge my overriding duty to assist the Tribunal on matters within my expertise in an impartial manner

Preliminary Comments:

1. **Nature of evidence for sports performance effects.**
   In human medicine or physiology, the pinnacle in the hierarchy of evidence for therapeutic effects is data from well-controlled, prospective therapeutic trials featuring randomization, placebo controls and the specific therapeutic endpoint in question.
   For the sports performance enhancing effects of any drug, there is not, nor can there ever be, such evidentiary certainty because it is ethically and logistically impossible to conduct the necessary controlled experiments using banned drugs during elite competitive sporting events. In anti-doping science, it is therefore necessary to make the most plausible inference from the best available surrogate evidence on sports performance enhancement.

2. **Use of salient surrogate variables for establishing performance enhancement**
   2.1. Despite the limitation in obtaining direct evidence of sports performance enhancement of drugs, classical studies using suitable, closely related surrogate variables provide compelling evidence. For example, a strong biological basis for androgen doping was provided by Bhasin et al in studies showing a tight linear relationship between testosterone dose and muscle mass or strength, extending from below to well above physiological testosterone levels, displaying additive effects with physical exercise, but without any plateau even at 6 times regular testosterone replacement dosage[1, 2].

2.2. Similarly, the strong linear relationship between acute changes in circulating hemoglobin and maximal oxygen consumption [3] explains the effectiveness of doping by increasing hemoglobin level by blood transfusion or other means (eg administration of erythropoiesis-stimulating agents (ESA)).

2.3. These findings form a sound basis for banning administration of both exogenous androgens and increasing hemoglobin (ie via blood transfusion) which directly enhance sports performance.

2.4. Furthermore, they also provide a rationale for banning of indirect doping methods. That refers to where substances or methods, which are not themselves intrinsically performance enhancing, are used to increase or supplement endogenous hormones (testosterone, erythropoietin) which do or can (depending on dose and drug combinations) enhance sports performance.

2.5. Such indirect androgen doping methods include use of human chorionic gonadotrophin (hCG), luteinizing hormone (LH), anti-estrogens (including estrogen blockers or aromatase inhibitor drugs) all of which are banned on the basis that androgens are banned as a class of doping drugs [4].

2.6. Similarly, indirect hemoglobin doping methods include ESAs such as erythropoietin and its analogs, hypoxic-mimetics and artificial oxygen carriers are banned on the basis that they are likely to increase circulating hemoglobin [5].

2.7. It is neither necessary nor feasible to evaluate explicitly the performance enhancing effects of each of the growing list of such putative doping substances. It is sufficient to show that for any substance in question, the key surrogate variable which can induce performance enhancement (endogenous testosterone for indirect androgen doping; hemoglobin for indirect blood doping) is increased. This demonstrates that the substance that produces such increases in endogenous hormones or hemoglobin is potentially performance enhancing and warrants being included on the Prohibited List. In effect, this is operationalised by the "catch-all" provisions under S1 (1a) and S2 categories of the Prohibited List.

2.8. It is germane to this consideration that the doses of approved drugs that can be used safely and acceptably in demonstrative therapeutic trials under ethical supervision are likely to be lower than the doses used illicitly (and in combinations with other ergogenic drugs) by athletes for doping purposes.

3. Lessons from anti-doping history.

In considering the limitations of surrogate evidence available for novel forms of doping, it is paramount to remember the lessons of history. Until the mid 1990's when it was directly refuted by Bhasin et al[1], it was widely held that healthy eugonadal male athletes could not benefit from exogenous androgens as their androgen receptors were already fully saturated and down-regulated by exposure to natural endogenous testosterone. This was largely due to inadequate studies which, specifically, used only low doses of androgens that did not match the doping practices involving much higher doses[6]. Tenacious adherence to this fallacy has been costly in credibility among athletes who were either androgen abusers themselves (and their support staff) or suffered disadvantage against those who were. The legacy of this misadventure is the experience of doctors that in obtaining the crucial detailed and accurate medical history, discussing doping practices now often features omission and deception [7]. It is crucial that wherever convincing evidence from supraphysiological and/or multi-drug doping regimens is not available, but where some effects are demonstrated at lower doses, it is prudent not to rule out ergogenic effects unless and until the testing can replicate characteristic doping regimens, especially as regards high doses and drug combinations.

4. WADA definition of the S0 "Non-Approved Substances"

The definition of S0 in the Prohibited List refers to ".... any pharmacological substance which ... (has) ... no current approval by any governmental regulatory health authority for human therapeutic use" (underline emphasis added) is banned at all times. Operationally, in Australia this is equivalent to whether that

substance is contained on the Australian Register of Therapeutic Goods (ARTG). None of these peptides are listed on the ARTG or other major national regulatory agencies (see also #17.6). This means they are covered by the WADA S0 category.

4.1. The WADA S0 definition makes an important distinction between diagnostic and therapeutic use as widely accepted by major drug regulatory agencies. Diagnostic use involves a single dose, usually in a medically equipped testing facility where blood samples are obtained to measure a biological response to the administered stimulus. This is quite different from therapeutic use which involves prolonged or repeated administration for the purpose of producing a therapeutic response to ameliorate a medical condition. In particular, the safety profile of a single use diagnostic drug is very different from approval for therapeutic use[1], which allows for not only the approved use but also tacitly, potentially open-ended off-label usage.

4.2. Therapeutic use may be either according to an approved medical indication or "off-label" usage. "Off-label" use is the administration of an approved drug for an indication (a justified medical reason for use), age, dose or using a formulation of it outside the terms of its approved registration for therapeutic use. "Off-label" usage also assumes the treatment is based on a valid prescription written by an approved person - a fully registered and suitably qualified doctor legally authorised to write a prescription for pharmaceutical drugs. Typically, off-label usage is for a non-approved indication or for an approved indication but significantly beyond the original approval (e.g. use in children when approved for adults, use of different dosage or form of the drug).

4.3. The focus on any governmental regulatory health authority for human therapeutic use does not stipulate which regulatory agencies are those of record. Globally, pharmaceutical drug marketing is subject to registration and approval from national drug regulatory agencies. Among these national drug regulatory agencies the most expert and experienced are those of the most economically developed countries, notably USA (FDA), Canada (Health Canada), UK (MHRA), Germany (BfARM), Sweden (MPA), Netherlands (MEB) and Australia (TGA). It is a strategy adopted by some pharmaceutical companies to seek drug registration from national regulatory agencies of less developed and developing countries whose national regulatory agencies have limited local expertise. In fact these less experienced regulatory agencies are often reliant on decisions of the more major regulatory agencies and in many cases they defer to such approvals. WADA's reliance on approval by <u>any</u> national regulatory agency leaves a loophole to circumvent the otherwise important S0 category.

5. Use of non-approved peptides in humans

5.1. The manufacture of peptide products for therapeutic use by reputable pharmaceutical companies requires strict compliance to Good Manufacturing Practice (GMP) standards which are subject to licensing and regular critical review by independent regulators. These are designed to (a) ensure the authenticity and expected biological activity of the product as labelled on the vial or packaging and (b) eliminate the possibility of adulteration of drugs with chemicals used in drug manufacture as well as *inter alia* sterility, non-pyrogenicity and shelf-life stability testing. Naturally this compliance has a major impact on increasing the costs of production.

5.2. Good manufacturing practice (GMP) is an internationally harmonised set of standards endorsed and enforced by major pharmaceutical drug regulatory agencies that control marketing authorisation/licensing in various countries or regions that aim to ensure drug products are safe and effective for therapeutic use. GMP standards were originally developed by the FDA in 1963 (following the USA's avoidance of the thalidomide tragedy because the FDA had declined to register thalidomide for therapeutic use in the USA). Consistent GMP regulations are now promulgated by the WHO, EU (European Medicines Agency) and International Conference on Harmonisation (ICH), the latter involving most economically developed countries. Within ICH signatory countries (including Australia

[1] "Therapeutic use" and "clinical use" are largely just alternative terminologies for the use of drugs in medicine aiming to prevent, treat or cure disease, based on sound knowledge of the drug's safety and efficacy for treatment in that setting.

and China), GMP regulations and licensing are implemented by their peak pharmaceutical regulatory agency – in Australia by the Therapeutic Goods Administration (TGA) and in China by the China Food and Drug Administration (CFDA). GMP requires, among many other things, thorough documentation of the source, process, quality controls and finished product specifications. This aims to ensure that end users can be confident of product manufacture to very high quality standards, subject to ongoing quality control monitoring including accurate labelling and freedom from contamination by infectious or toxic adulterants. Accurate and detailed record keeping covering all stages of manufacturing are mandatory, onerous and subject to regular inspection to maintain licensing.

5.3. Non-approved therapeutic drugs may be used under certain circumstances. For life-saving circumstances, the Special Access Scheme (SAS) allows for compassionate use of specific drugs for individual patients with the approach documentation and expert specialist supervision. For less urgent use of non-approved therapeutic or diagnostic drugs (including therapeutic research), the Clinical Trials Notification (CTN) scheme allows a competent institutional human research ethics committee (HREC) to take responsibility together with its specialist doctors for the risk-benefit evaluation and supervision of safe conduct of therapeutic trials. Where no HREC is available or the relevant institutional HREC is unwilling or unable to judge risk-benefit and safety, the Clinical Trials Exemption (CTX) scheme allows for the TGA to make such evaluation.

5.4. In these circumstances of non-approved substances, the availability of pharmaceutical GMP grade products, provide reasonable assurance of safety, with regard to authenticity, purity and sterility. However, although non-approved drugs without a pharmaceutical company sponsor may also be considered, these are usually non-sterile oral or topical products rather than injectable drugs where the adulteration, sterility and pyrogenicity are additional major risks.

5.5. None of these safety assurances are available when peptides or other chemicals are obtained from any of the numerous low-cost peptide synthesis facilities around the world, either directly from the plant or via the internet. Among confiscated drugs intended for doping counterfeit [8] and fake packaging or labelling [9, 10] are well known. The extent of clean-up from toxic adulterants used in manufacture is unknown and/or unverifiable. In order to forestall any legal action, the vials are usually clearly marked "for research use" or a similar designation which is affixed to indicate they are not sold as fit for human use. It is perplexing by what scientific process such raw material substrate, purchased as not fit for human use, is then rendered fit for human use by a compounding chemist for use without fully informed consent for a non-approved substance, as well as the additional safety assurance and independent supervision by a competent human ethics committee.

5.6. It has been my personal experience, that a competent HREC would not approve use of such non-marketed products in human volunteers even for single dose experiments as the safety of the product could not be reasonably verified.

5.7. An important feature of the therapeutic use of non-approved substances like peptides is the necessity to obtain fully informed, written consent to the administration. In achieving this, modern standards require provision of a written Information Sheet which gives the name of the drug, its source, the commercial sponsor of the study or other agency taking responsibility for the drug administration, the medical reason (indication) for the administration, the likely expected effects and side-effects, warning about teratogenic risk and the extent of clinical experience in using that product. Use of such substances without fully informed consent would be a major dereliction of duty by any doctor and a matter of even more grave concern if undertaken without medical supervision and/or by an unqualified person.

6. Safety

6.1. For any drug, proof of safety is essentially the proof of a negative - that is no significant or serious adverse effects. Hence any judgement on safety has to be carefully circumscribed by the conditions of the safety testing undertaken. These considerations include especially the size of the population studied, the intensity of the surveillance for harm and duration of follow-up, all of which combine to

determine the likelihood of detecting uncommon, subtle or indirect but potentially serious adverse effects. Specifically, serious adverse effects can be missed in small samples with minimal surveillance and limited follow-up. Over recent decades these issues have repeatedly led to FDA withdrawal from the market of drugs which were approved under the usual rigorous therapeutic development program involving phase I-III clinical trials but were subsequently found to have serious but infrequent adverse effects. Hence reliance on simple survival and/or spontaneous complaints of harm experienced by the drug exposed person are inadequate to meet modern safety standards of detecting and predicting long-term toxic organ damage following drug exposure.

6.2. An important and often under-estimated risk is that associated with dose finding for non-approved drugs. The catastrophic effects of a 2006 phase I therapeutic trial in the UK have been well reported (see recent BBC update report (http://www.bbc.co.uk/news/health-22556736) and Annex to this report). These events highlight that even with the most diligent pre-clinical evaluation of drug effects in the laboratory and in animal models, disastrous miscalculations with devastating effects can occur. This misadventure has had a galvanizing effect on conduct and approval of therapeutic trials world-wide. Any competent person intending to administer new, injectable non-approved substances should be acutely unaware of the risk and accompanying responsibilities.

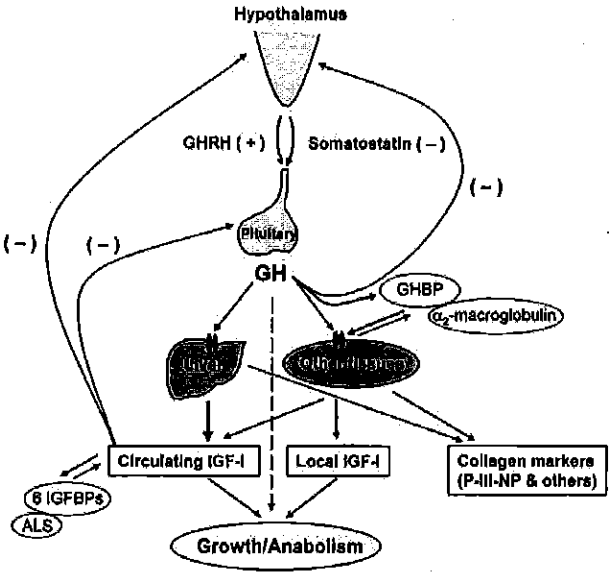
6.3. Similarly, concern about teratogenicity would preclude the use of non-approved substances in pregnancy (or in fertile women where pregnancy is not ruled out), unless there was a major and serious medical disorder justifying treatment. Otherwise, the teratogenic risk makes administration of non-approved substances to potentially fertile women without valid medical indication a reckless and highly irresponsible activity.

6.4. A further safety concern is that drugs such as tissue growth factors listed under S2 which promote cellular proliferation may enhance healing from injury; however, they are also likely to enhance proliferation of latent or metastatic cancer cells so that careful and ongoing safety evaluation is essential for people exposed to such treatment.

Specific Comments

7. Physiological regulation and pharmacological stimulation of growth hormone (GH) secretion

The physiological regulation of GH secretion is complex. GH is secreted exclusively by the somatotroph cells of the anterior pituitary gland. Endogenous GH secretion is primarily under dual regulation by stimulatory effects of GH releasing hormone (GHRH) and inhibitory effects of somatostatin, both short peptides secreted by the hypothalamus. GH is secreted in a markedly pulsatile fashion with bursts of highly variable magnitude at 2-3 hour intervals. Only minimal GH secretion occurs between these intermittent bursts. This intermittent pattern of GH secretion is entrained by a hypothalamic pulse generator, which coordinate the two hypothalamic peptides that govern GH secretion from the pituitary somatotrophs. Hence, circulating GH concentrations are mostly at very low or undetectable levels with only brief episodes of high circulating levels. The largest and most active pulses of GH secretion occur during sleep (stage IV, slow wave) sleep. Overall, net GH secretion is gradually reduced with age from the 3rd decade onwards as well as by obesity whereas undernutrition, acute stress and exercise increase GH secretion.



A third potent regulatory influence on GH secretion is negative feedback by GH itself (via hypothalamus)

as well as by circulating IGF-I (produced mainly by the liver) at the pituitary level. The effects of many factors such as ageing, gender, estrogen/androgen effects, stress, trauma, sleep, exercise, fasting/nutrition and some GH-sensitive metabolic factors (fatty acids, glucose) as well as pharmacological stimulators of GH secretion (arginine, lysine, L-dopa) are all exerted by means of these more final common pathway drivers (or inhibitors) of GH secretion although the detailed mechanisms of action are not always fully characterized.

Ghrelin, a gastric peptide with both a bioactive (3-octanoyl) and inactive forms has only a subordinate minor role [11] in physiological regulation of GH secretion with a greater role in appetite (satiety feedback) regulation. However, Ghrelin analogs which act upon the Ghrelin receptor do have potent pharmacological effects on short-term GH secretion.

The most potent pharmacological drugs that stimulate endogenous GH release (indirect GH doping) are either synthetic GHRH or various Ghrelin agonists which are short peptides pharmaceutically engineered to have more potent and long-lasting duration of action leading to sustained GH secretion. To achieve effective, sustained pharmacological stimulation of GH secretion, a secretagogue must overcome several obstacles. It must have (a) a prolonged depot-like duration of release, (b) it must be protected against the usually rapid metabolism of short peptide in the circulation, and (c) it must also overcome the negative feedback and inhibitory somatostatin effects. Virtually none of the GH secretagogues developed based on GHRH or Ghrelin structures have been approved for marketing, mainly because despite provoking GH release on initial dosing, they proved unable to sustain increased endogenous GH release. To the best of my knowledge, the sole exception is GHRP-2 (pralmorelin) which was approved for marketing by Kaken Pharmaceuticals only in Japan for diagnostic use (ie as a single dose test for GH deficiency) and not for therapeutic use (ie repeated administration to induce sustained GH secretion).

Although such indirect GH doping may not detected in either of the two current GH doping tests (isoform or biomarker), there is evidence that Ghrelin analog administration may have a masking effect on GH doping tests [12].

8. **Direct performance enhancing effects of GH**
The two best, well-designed studies of the direct performance enhancing effects of GH show only marginal effects at the relatively low doses used (reviewed in [11, 13, 14]).

8.1. In one study, 30 healthy participants (15 men, 15 women) were randomized to treatment with one of two doses of hGH (0.038 or 0.067 mg/kg/day, equivalent to ~2.3 or ~4.6 mg/day) or placebo for 28 days. Neither GH dosage produced any significant increase power output or maximal oxygen consumption [15].

8.2. A larger and more definitive study examined 96 recreational athletes (63 men, 33 women) who were randomized to treatment with GH (2 mg/day) or placebo for 8 weeks; in addition, the men were randomized to additional testosterone treatment (injection of 250 mg testosterone esters weekly) or placebo for the last 5 weeks [16]. One performance measure (anaerobic sprint capacity, Wingate test) was significantly increased (by 5.5%) in men, but not women, and the effects in men were further increased when combined with testosterone (+8.3%). There were no other effects of GH on 3 other performance measures (maximal oxygen consumption, dead lift or jump height). GH had effects on body composition (increased lean and decreased fat mass) in both men and women.

8.3. Two additional placebo-controlled studies of GH effects on performance were less convincing. One reported significant improvement in maximal oxygen consumption but only studied very short-term, low dose GH treatment in abstinent former androgen abusers using an incompletely masked study design [17]. The other did not report any recognised exercise performance variables [18].

8.4. Caveats arising from both the well designed and conducted studies are that higher doses of GH, of testosterone and their interaction were not studied. These higher doses and combination regimens

more closely replicate the reported doping practices.

8.5. It is therefore concluded at this time that GH is likely to enhance sports performance especially in combination with androgens, but the demonstrated magnitude of effect is less than that shown for the major ergogenic agents (androgens, ESA). It is likely, however, that greater effects may be detected at higher GH doses than have been tested and especially in combination with higher androgen doses. This supports the rationale of the banning GH under S2.

9. Indirect performance enhancing effects of GH via tissue repair and/or injury healing

9.1. The other potential benefit of hGH relevant to sports performance enhancement is the claim that GH improves tissue repair and/or healing recovery from injury. If true, this would expedite recovery from sporting injuries and/or from intensive training allowing faster return to competition from injury and/or the ability to tolerate more intensive training regimens. This claim is difficult to evaluate for the diversity of the claims and the mechanisms involved, with a corresponding lack of widely accepted surrogate measures. Nevertheless, effects of GH on healing in burns, fractures and skin wounds have been studied as the nearest available surrogates to injury healing.

9.2. GH effects on recovery from burns injury are the most investigated and also the subject of a recent Cochrane review [19]. This meta-analysis notes a small but (statistically) significant benefit in skin healing with large burns and reduced hospital stay but no benefit in mortality or scarring together with an increase in adverse effects (hyperglycemia). The increased mortality due to high dose GH treatment in critical illness reported in another influential study [20] has overshadowed these findings, although this study was not included in the Cochrane meta-analysis as it did not focus solely on burns injury. As a result, GH treatment for burns injury has not been adopted as having a sufficient benefit-risk-cost profile for therapeutic management. The warnings about the increased mortality of high dose GH in critical illness [20] together with concern that long-term GH treatment may increase risk of subsequent cancers [21, 22], are relevant to the safety criterion in the WADA Code for placing substances on the Prohibited List.

9.3. The effect of GH treatment on fracture healing was examined in one well-designed study where patients with tibial fractures (n=408) were randomized to GH treatment (1, 2 or 4 mg per day) or placebo for up to 16 weeks [23]. No benefit was observed in healing although a post-hoc trend to a benefit for high dose GH in patients with closed fractures was reported.

9.4. The effect of GH on wound healing (excluding bone) has not been investigated by well designed clinical studies. There are numerous pre-clinical studies using animal models or *in vitro* showing a wide range of effects of GH from beneficial to neutral or deleterious. The findings on wound healing are therefore inconclusive.

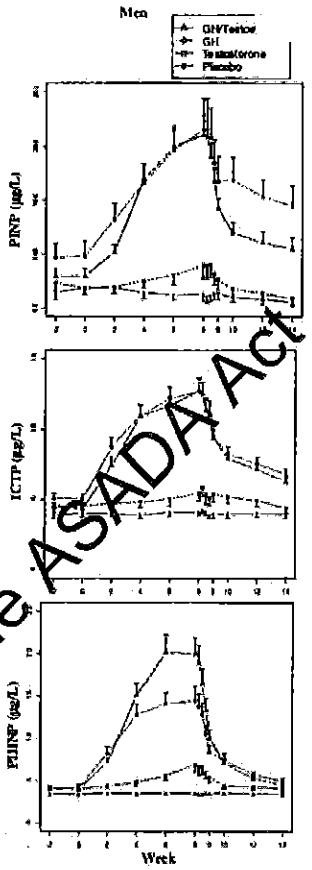
9.5. In summary, the effect of GH for improved injury healing shows a minimal to modest benefit. However, the available surrogate evidence cannot rule out effects from higher GH doses with or without combination with other drugs, notably androgens but also possibly tissue growth or angiogenic factors, for the milder sports related injuries including effects of vigorous training. Consequently this forms an additional basis for the banning of GH secretagogues under the "catch-all" provisions of S2.

10. Cumulative effects of long-term or repeated GH administration or exposure

A key issue is what would be the effects of prolonged or repeated cycles of administration of these peptides. On this issue, noting the lack of definitive clinical studies, some insight is available from experience of cumulative effects of administering GH and other hormones.

10.1. The effects GH on tissues are best exemplified by onset and offset of GH effects in the longer, well-controlled study (see #4.2) [24]. During GH treatment, serum IGF-I and related biomarkers

(IGFBP-3, ALS) usually peaked at the 1st time-point measured during treatment (2 weeks) and were largely reversed by a week after cessation of GH administration.
By striking contrast, the tissue effects of GH on 3 collagen peptides[2] were much slower to peak and persisted much longer (see figure).



The peak GH effect on collagen peptides was apparent only at the end of the 8 week treatment period and did not reach any plateau, which means that even higher effects may be evident with prolongation of GH treatment.
Furthermore, the collagen peptide responses were only slowly and partly reversed after cessation of GH treatment, with most effects persisting without having returned to baseline at the end of the 6 week post-treatment follow-up period. Hence this study provides only minimal estimates of the likely impact of GH treatment on tissues if treatment was prolonged beyond 8 weeks or even if repeated cycles of treatment were instituted before the effects of the previous treatment had fully worn-off. Furthermore, as the GH effects did not reverse by 6 weeks after cessation of treatment, it is likely that full reversal of GH effects may take several months. Thus if repeated cycles of GH treatment were to be re-started before full reversibility of GH tissue effects (assuming these effects are eventually fully reversible), then a "stair-case" pattern of a rising between-treatment plateau would be created. Presumably this re-creates the pattern of major tissue changes of acromegaly, a hypothalamic-pituitary disease which features persistent and prolonged excess of endogenous GH secretion leading to characteristic pathological tissue over-growth effects on bone, muscle, cartilage and joints.

10.2. The reversibility of hormone effects following cessation of exposure varies widely from full to partial reversal or to completely irreversible. Short-term biochemical responses are more often reversible whereas tissue effects, notably those of growth and pubertal maturation, are more often largely or fully irreversible. For example, virilisation effects of testosterone at male puberty or the growth effects of GH prior to and during puberty are largely irreversible, or at most, only partly and slowly reversed, even if hormone exposure is subsequently reduced or ceases.

10.3. One practical example of these effects is the eligibility of transgender people for sport in their transitioned gender. Whereas female-to-male (F2M) athletes are acceptable in male sports and male-to-female (M2F) are acceptable in female sports if the cross-gender transition and hormonal treatments commence prior to puberty, M2F transitioning after puberty is not generally considered reasonable as the gender-disproportionate bone and muscle growth during normal male puberty is largely irreversible, even if ongoing endogenous testosterone exposure is removed (see IOC consensus statement on transgender athletes, 2003).

10.4. Another therapeutic example of the partial reversibility of hormonal effects from a course of treatment enabling greater responses to repeated treatments is from the hormonal induction of testis development leading to spermatogenesis and fertility in gonadotrophin-deficient infertile men. In these gonadotrophin deficient infertile men, second and subsequent cycles of gonadotrophin replacement therapy are faster to reach the therapeutic endpoints (sperm output, fertility) than the first cycle [25]. This effect is because the testis growth produced by the first cycle of treatment is only partially reversed when hormone administration ceases. As a result, second and subsequent cycles start from a larger testis size baseline resulting in faster re-initiation of spermatogenesis.

10.5. Consequently it is likely that GH effects may last for up to several months even after only moderate doses with or without co-administration of androgens. The reversibility, and possibility of

[2] N-terminal propeptide of type I procollagen (PINP), C-terminal telopeptide of type I collagen (ICTP), N-terminal propeptide of type III procollagen (PIIINP)

additive, stair-case effects, depends on the dose and duration of GH treatment. While comparable details are not available for the GHS peptides, similar additive effects with other hormones as well as non-GH mediated effects may be produced by prolonged and/or repeated courses of drug exposure and which vary in their degree and tempo of reversibility after multiple cycles of hormone administration.

10.6. A further aspect of prolonged or repeated GHS peptide treatment is desensitisation of endogenous GH responses to stimulation. This is due to both down-regulation and desensitisation of the GHS receptor [26-29] as well as via effects mediated negative feedback inhibition of GH on its own secretion[11], a common feature of pituitary-dependent hormones that are characteristically regulated by negative feedback mechanisms.
As a result, prolonged or repeated doses of GH or GHS (via its effects on stimulating GH secretion), causes suppression of endogenous GH secretion, the magnitude and duration of which is not well defined. However the resulting GH deficiency state may persist well beyond the time when GH or GHS treatment ceases. Although the functional GH deficiency may be ultimately reversible, prolonged periods of post-treatment GH deficiency may have deleterious effects on health and sports performance.

10.7. This is analogous to the effects of exogenous androgens which inhibit endogenous testosterone production. That inhibition of endogenous testosterone production can last for many months to over a year beyond cessation of treatment. The recovery time depends on the dose and duration of exogenous androgen abuse. For example, heavy androgen abusers (eg bodybuilders who have used high doses for prolonged periods (years) without a break), have a characteristic suppression of their own reproductive system (subnormal serum testosterone, impaired spermatogenesis and infertility) which may take 12 months or more to recover full functionality. This is also analogous to the post-pill amenorrhea, a feature of the first generation of high estrogen dose oral contraceptives.

10.8. In practice, this might mean that athletes using GHS for prolonged periods or in repeated doses or cycles may experience functional GH deficiency as a withdrawal effect with deleterious effects on performance. How long this lasts until endogenous GH secretion recovers is not known but could be for many months or up to a year.
The prolonged tissue effects of GH or GHS including recovery may therefore extend for many months until the normal GH axis functionality returns.

11. Definition of GH releasing factors

11.1. The term releasing factor is a generic "term of art" in endocrinology referring to any substance which causes physiological or pharmacological release of another chemical, usually a hormone, which (by definition) then in turn enters the circulation to act on a distant cell or tissue. It is not a specific appellation of any particular chemical or hormones but rather it refers to a class or grouping of chemical substances which may have no chemical similarity but share biological effects. This term is also congruent with the concept of indirect doping, which is the use of a substance or method to cause increased release of a potentially ergogenic endogenous hormone (e.g. testosterone, GH) or substance (e.g. hemoglobin).

11.2. This definition is consistent with the term "releasing factors" in the section 2 (notably 2.4) of the Prohibited List in that releasing factors refers to any chemical which causes release of endogenous GH. This clearly includes GHRH and Ghrelin, together with their analogs.

11.3. It is less clear whether or not this extends to chemicals that have been used pharmacologically in single (high) dose, short-term (<2 hours) provocative tests of GH release to diagnose GH deficiency by stimulating endogenous GH secretion. These include insulin, arginine, lysine, clonidine, l-dopa, and glucagon. Their precise mechanism of action in stimulating acute GH release remains incompletely defined though the best evidence is that they involve modulation of the hypothalamic dual release and negative feedback mechanism that regulates endogenous GH release, rather than any novel

receptor-mediated mechanisms [30-35]. On that basis as well as the fact that there is no evidence that these chemicals produce sustained endogenous GH release, the minimal medical or pharmacological significance means the mechanism is unlikely to be elucidated in the near future.

12. Rationale for banning GH releasing peptides.

12.1. The banning of GH releasing factors, also known as GH secretagogues, is dependent on their effects in stimulating endogenous GH secretion. As GH itself is banned under S2, the administration of substances that stimulate endogenous GH would constitute indirect GH doping and therefore warrant banning.

12.2. Moreover, it is likely that there are additional performance enhancement effects of GH secretagogues via more speculative but plausible claims of non-GH mediated effects as well as masking effects [12]. These claims include improved tissue healing and therefore recovery from injury and/or supporting higher intensity training with use of Ghrelin [36-41] or GHRH [38, 42] analogs. These would constitute an additional basis for banning GHRH analogs or GH secretagogues under the "catch-all" provision of S2 for various growth factors with similar chemical or biological effects.

13. Specific GH releasing peptides

Most of the peptides under review are Ghrelin analogs acting via the GHS receptor with the common features being they are short peptides, making them easily and cheaply synthesized by widely available commercial peptide production facilities. They all contain artificial amino acids which extend the duration of action of the peptide by inhibiting the otherwise very rapid metabolism by endogenous peptidases, which creates a very brief duration of action. The artificial amino acids are also valuable xenobiotic signatures that permit more facile detection of these peptides.

13.1. **The structure of the peptides are listed in the table following:**

Table 1. Growth Hormone Releasing Peptides, Metabolite for GHRP-2, and the Used ISTDs with Their Amino Acid Sequence, Elemental Composition, Monoisotopic Masses, and Dominant Charge State[a]

name	amino acid sequence	monoisotopic mass [Da]	elemental composition	dominant charge state (ESI)
GHRP-2	(D-Ala)-(*D*-β-Nal)-Ala-Trp-(*D*-Phe)-Lys-NH_2	817.427	$C_{45}H_{55}N_9O_6$	2+
GHRP-1	Ala-His-(*D*-β-Nal)-Ala-Trp-(*D*-Phe)-Lys-NH_2	954.486	$C_{51}H_{62}N_{12}O_7$	2+
GHRP-6	His-(*D*-Trp)-Ala-Trp-(*D*-Phe)-Lys-NH_2	872.444	$C_{46}H_{56}N_{12}O_6$	2+
GHRP-5	Tyr-(D-Trp)-Ala-Trp-(D-Phe)-NH_2	770.354	$C_{43}H_{46}N_8O_6$	1+
GHRP-4	(D-Trp)-Ala-Trp-(D-Phe)-NH_2	607.292	$C_{34}H_{37}N_7O_4$	1+
alexamorelin	Ala-His-(*D*-Mrp)-Ala-Trp-(*D*-Phe)-Lys-NH_2	957.497	$C_{50}H_{63}O_7N_{13}$	2+
hexarelin	His-(*D*-Mrp)-Ala-Trp-(*D*-Phe)-Lys-NH_2	886.460	$C_{47}H_{58}N_{12}O_6$	2+
ipamorelin	Aib-His-(*D*-β-Nal)-(*D*-Phe)-Lys-NH_2	711.385	$C_{38}H_{49}N_9O_5$	1+/2+
GHRP-2 metabolite	(D-Ala)-(*D*-β-Nal)-Ala	357.168	$C_{19}H_{23}N_3O_4$	1+
ISTD1	(D-$^{[2]}H_3$-Ala)-(*D*-β-Nal)-Ala	360.187	$C_{19}H_{20}{}^{[2]}H_3N_3O_4$	1+
ISTD2	(D-Trp)-$^{[2]}H_4$-Ala-Trp-(D-Phe)-NH_2	611.315	$C_{34}H_{33}{}^{[2]}H_4N_7O_4$	1+

[a]Nonstandard abbreviations: Nal = naphthylalanine, Mrp = 2-methyltryptophan, Aib = aminoisobutyric acid.

Table from: Thomas et al, Anal Chem 84: 10252-10259, 2012

14. ***GHRP-6***

14.1. **WADA Status:** S0 & S2
S2: GHRP-6 is a releasing factor of endogenous GH.
S0: GHRP-6 has never been approved for therapeutic use by any regulatory agency

14.2. **Chemical structure:** See table. GHRH-6 was the first synthetic Ghrelin agonist to be purpose-developed. It arose from the surprising discovery of potent GH releasing activity of the pentapeptide

enkephalins[43, 44]. GHRP-6 is a synthetic hexapeptide modelled on the enkephalin structure but modified to feature a terminal amide and two synthetic D amino acids to inhibit proteolytic degradation and prolong bioactivity.

14.3. **Physiology & Pharmacology:** GHRH-6 is a synthetic Ghrelin agonist which stimulates GH secretion via the GHS (Ghrelin) receptor. Additional effects of GHRP-6 on other pituitary hormones (prolactin, ACTH) and on tissue protective effects (antioxidant, re-perfusion recovery) are also reported. The duration of effect GHRP-6 effects is brief with blood levels of GHRP-6 remaining detectable for <12 hours after a single dose [45] while the GH secretion response lasts no more than 2-3 hours [46, 47]. Although substantive data are lacking, it is a reasonable speculation that any tissue effect of additional GH exposure stimulated by GHRP-6 administration would last no more than a few weeks beyond the last GHRP-6 dose.

14.4. Thus, as a drug designed to and which does cause release of endogenous hGH, GHRP-6 is considered as a doping agent under S2.

14.5. **Safety:** Most therapeutic use of GHRP-6 reported has been proof of concept studies using single doses for comparison of GH releasing and other effects compared with GHRH and/or Ghrelin agonists. The longest duration study of GHRP-6 administration in humans was in 7 older women who were administered 300 µg/kg twice daily for 4 days without reported adverse effects [47]. This minimal extent of safety exposure is inadequate to support use of GHRP-6 outside carefully monitored and designed therapeutic trials under supervision of a competent HREC.

15. ***Hexarelin***

15.1. **WADA Status:** S0, S2

S2: Hexarelin is a releasing factor of endogenous hGH

S0: Hexarelin has never been approved by any regulatory agency for human therapeutic use

15.2. **Chemical structure:** See table. Hexarelin was developed as a more potent Ghrelin agonist than the first Ghrelin agonist, GHRP-6. It differs from GHRP-6 only in one amino acid (D-methyl tryptophan replacing D-Trp at position 2).

15.3. **Physiology & Pharmacology:** Hexarelin has very similar pharmacology to GHRP-6 and stimulates GH secretion in a similar pattern to other GHRH or Ghrelin analogs. A single dose of hexarelin increases serum GH levels for up to 3 hours (and that of other hormones like ACTH, cortisol and prolactin for up to 1 hour). Continued dosing leads to desensitization and no consistent increase in serum IGF-I (an integrated measure of GH effects) [48-53]. Although there is no data, it is most likely that the consequential GH effects might persist for a longer period, perhaps a week at most.

15.4. Thus, as a drug designed to and does cause release of endogenous hGH, hexarelin is considered as a doping agent under S2.

15.5. **Safety:** Hexarelin has been used in over 50 clinical research studies each involving a median of 12 (range 6-54) participants using intravenous or subcutaneous injections in doses ranging from 1-2 µg/kg. Nearly all were single dose experimental studies so that knowledge of the safety profile for multi-dose usage is minimal. The longest studies investigating repeated administration of hexarelin have used (a) twice daily subcutaneous injection of 1.5 µg/kg for 16 weeks in 12 elderly volunteers [52, 53], (b) 18 mg/kg for 8 days or 300 µg/kg for 15 days in 7 elderly volunteers [50] or (c) thrice daily intranasal spray of 60 µg/kg in 7 children for up 10 months [48, 49]. The studies showed no consistent increase in serum IGF-I levels and a consistent partial desensitization (reduction of hexarelin stimulation of GH secretion) during prolonged hexarelin administration. No serious adverse effects were reported in any of these studies. The lack of any more than single dose studies of hexarelin reported since 2000 indicates the status of hexarelin is as a clinical research diagnostic tool, without prospect of therapeutic use primarily due to its weak and ill-sustained efficacy (judged by sustained

elevation of serum IGF-I effects). This is sufficient safety exposure for therapeutic research studies under HREC supervision but not for wider, unsupervised therapeutic use especially without a valid medical indication.

16. ***CJC-1295***

16.1. **WADA Status:** S0, S2
S2: CJC-1295 is a releasing factor of endogenous hGH
S0: CJC-1295 has never been approved by any regulatory agency for human therapeutic use.

16.2. **Chemical structure:** CJC-1295 is a 30 amino acid analog of 1-29 hGHRH stabilised by 4 amino acid substitutions plus an additional 3-maleimidopropionic acid (MPA) unit added to extra lysine at the C terminus.

16.3. **Physiology & Pharmacology:** CJC-1295 retains full GH releasing bioactivity of hGHRH but has a prolonged circulating half-life (and therefore duration of action) because the C terminal MPA unit forms an *in vivo* bioconjugate with circulating serum albumin through its free thiol group on Cys34[54]. A proof of principle study in GH deficient mice showed that daily, but not 2nd or 3rd daily, injections of CJC-1295 fully rectified growth to achieve normal weight, length and body composition as well as increased serum IGF-1. Injections every 2nd or 3rd day normalised body composition but not growth or serum IGF-I levels.

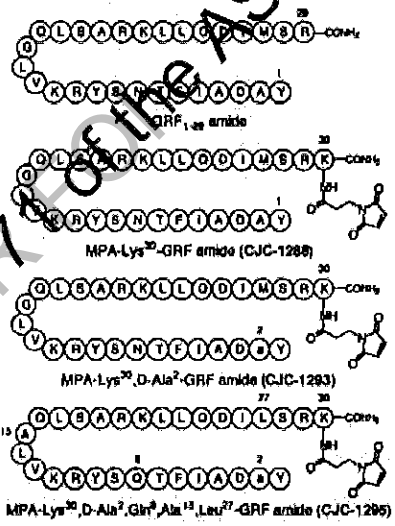


FIG. 1. Molecular structures of $hGRF_{1-29}$ amide and the three maleimido derivatives CJC-1288, CJC-1293, and CJC-1295, prepared by solid-phase synthesis. CJC-1288 is $hGRF_{1-29}$ with an extra lysine (Lys) at the 30-position to accommodate a MPA; CJC-1293 is equivalent to CJC-1288 but with a D-alanine (D-Ala) at the 2-position; and CJC-1295 is a tetrasubstituted analog of CJC-1288 but with a D-Ala at the 2-position, a glutamine (Gln) at the 8-position, an Ala at the 15-position, and a leucine (Leu) at the 27-position.
Jette et al Endocrinology 146: 3052-8, 2005

CJC-1295 has been reported in only two therapeutic trials conducted by single principal investigator (Dr L Frohman, Chicago). The first studied pulsatile GH secretion following a single subcutaneous injection of CJC-1295 (either 60 or 90 µg/kg) in 12 healthy men [55]. The second study involved a dose-finding study comprising 42 single doses (ranging from 30 to 250 µg/kg) and then 24 participants of whom 12 received two doses at 2 week intervals (30 or 60 µg/kg) and another 12 who received three doses at weekly intervals (30 or 20 µg/kg)[56]. Plasma CJC-1295 levels were detectable for up to 14 days after a single injection at the highest doses (125 & 250 µg/kg) with and serum IGF-I was elevated for ~10 days at all doses and 14 days at the highest dose (250 µg/kg)[56].

16.4. Thus, as a drug designed to and does cause release of endogenous hGH, CJC-1295 is considered as a doping agent under S2

16.5. **Safety:** The safety experience of CJC-1295 pooling both reported studies consisting of 114 injections in 66 individuals (assuming none participated more than once). Both studies reported injection site reactions which were dose dependent with induration lasting up to 5 days at higher dose but all resolved spontaneously. In the single dose study, tachycardia and injection site irritation were reported in some men but no serious adverse effects. In the multi-dosing study, flushing, dizziness, hypotension, headache, diarrhea, incoordination with leg muscle contractions were all reported but resolved spontaneously without lasting sequelae. There were no abnormalities detected in routine safety lab tests (biochemistry, hematology). No other serious adverse effects were noted. This safety experience is neither alarming nor reassuring and could be considered sufficient to support carefully monitored therapeutic research study under supervision of a HREC but not for wider unsupervised therapeutic use.

17. ***Thymus Extract Peptides, Thymomodulin and Thymosins***

17.1. Thymomodulin is a term that refers to a crude extract of calf thymus produced in Europe during the early to mid-20th century. It has sometimes been referred to as "thymic" or "thymus" hormones. At that time, prior to the modern detailed understanding of immunology, the thymus was known to be present at a young age and to virtually disappear by adulthood but its precise function was not yet known. By a process of little more than wishful thinking it was considered as a potential means of rejuvenation of youthful vigour and healing capacity. The calf thymus extract was described as a cell-free acid lysate so that, like any biological extract, it is a mixture of probably hundreds or thousands of active and inactive proteins – including ones that have opposing effects - making it subject to batch-to-batch variation in composition and effects. This makes it difficult, if not impossible, to standardise dosage or to evaluate therapeutic safety by modern standards.

17.2. Such crude extracts were used to important effect in the 19th and early 20th century laboratory research to identify and purify hormonal effects and ultimately to fully characterize the hormones we now know. Such crude extracts including thymomodulin were also popularly promoted by quack rejuvenation clinics, which proliferated in mid-20th century Europe. Till the middle of the 20th century crude biological extracts (eg dessicated thyroid extract, posterior pituitary snuff, equine estrogens) were still used therapeutically in medicine but have been supplanted by purified hormones as they became properly identified in the latter part of the 20th century. Crude extracts are an important first step along the discovery pathway of identifying important biological proteins, but they are definitely outmoded and unacceptable as therapeutic substances by the standards of medicine in the 21st century.

17.3. Thymomodulin was partially purified into subfractions called thymosins [57]. Some forms of thymomodulin continued to be marketed and used into the late 20th century in Europe [58, 59]. Thymosin fraction 5 (TF5) was used in some small therapeutic trials [60] but it appears never to have been formally marketed. TF5 was a family of at least 40 (and probably many more) mostly small acidic polypeptides with molecular weights 1,000 to 15,000 [61]. Subsequently, further purifications of TF5 by isoelectric focussing divided TF5 into 3 broad subsets, based on their pH, comprising highly acidic (α), acidic (β) and basic (γ) fractions. Each of these pH fractions comprised many distinct proteins which were then given numerical subscripts (α_1, α_2, α_3, β_1, β_2, β_3 etc) according to their appearance as bands on the purifying gels. However, even these gel fractions are not necessarily single proteins but can also be mixtures. Further work has clarified the precise molecular structure of many of these thymosins.

17.4. Thymosin α_1 and β_4 have been fully characterized structurally according to their precise amino acid sequence and developed for therapeutic trials.

17.5. **Thymosin Beta-4**

17.5.1. **WADA Status:** S0, S2

S2: Thymosin β4 is a growth factor affecting muscle, tendon or ligament, vascularisation and regenerative capacity.
S0: Thymosin β4 has never been approved by any regulatory agency for human therapeutic use

```
thymosin-β4   Ac-SDKPDMAEIEKFDKSKLKKTETQEKNPLPSKETIEQEKQAGES
thymosin-β10  Ac-ADKPDMGEIASFDKAKLKKTETQEKNTLPTKETIEQEKRSEIS
thymosin-β15  Ac-SDKPDLSEVETFDKSKLKKTNTEEKNTLPSKETIQQEKEYNQRS
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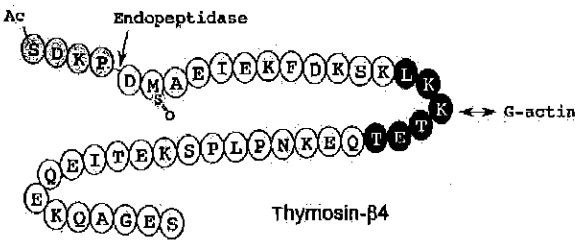


Thymosin β-4 structure. From Hara Vitam Horm 2011

17.5.2. **Chemical structure:**

Thymosin β4 is a 43 amino acid peptide. The molecular structure of Thymosin β4 is shown in the diagram opposite where each letter indicates one of the 20 different amino acids

17.5.3. **Physiology & Pharmacology:**

Thymosin β4 is a member of the family of thymosins, a highly conserved family of 40-60 small peptides

originally purified from calf thymus. They now are divided into 3 groups (α, β, γ) according to their isoelectric points. The thymosin β family have a neutral pH (5.0-7.0) and includes ubiquitin (thymosin β-1) but with thymosin β-4 together with several others being highly homologous and having overlapping tissue regeneration and recovery functions [62].

17.5.4. **TB-500, an analog of thymosin β4**

TB-500, a short peptide analog of thymosin beta 4 has been identified in horse doping [63, 64] and the prospects of thymosin ß-4 as a doping agent has been outlined [65]. As TB-500 was invented as an analog of thymosin β4, it is presumed by design to have the same properties as thymosin β4. These include acting as a growth factor which affects muscle, tendon or ligament vascularisation and regenerative capacity hence banned under WADA category S2. TB-500 has not been marketed for human therapeutic use anywhere. Hence, TB-500 is banned under the WADA Prohibited List categories S0 and S2.

17.5.5. Thymosin β-4 has both intracellular and extracellular functions [66]. The intracellular function is primarily as a G-actin monomers binding protein which acts to sequester the actin in the form of monofilaments in dynamic balance with F-actin polymers. These stabilise cellular shape and mobility including muscle contractility. Such intracellular functions are likely to be impervious to administration of exogenous thymosin β-4.

17.5.6. Thymosin β-4 has both intracellular and extracellular functions [66]. The intracellular function is primarily as a G-actin monomers binding protein which acts to sequester the actin in the form of monofilaments in dynamic balance with F-actin polymers. These stabilise cellular shape and mobility including muscle contractility. Such intracellular functions are likely to be impervious to administration of exogenous thymosin β-4.

17.5.7. The extracellular functions of thymosin β-4 include angiogenesis [67-78], wound healing [79-88] and chemotaxis of cells involved in inflammation [89, 90] and tissue regeneration including skeletal and cardiac muscle [90-94]. The angiogenic effects vascularisation) involve interactions with hypoxia-inducing factor [70-72, 75] and Notch signalling [78, 95, 96], a pathway involving on hypoxia-inducing factor.

17.5.8. These functions of thymosin β-4 may not be entirely beneficial as noted in cautions from experimental studies suggesting that thymosin β-4, via enhancing cell migration and angiogenesis, may promote the metastatic potential of certain cancers [97, 98].

17.5.9. Thus, as a growth factor affecting muscle, tendon or ligament, vascularisation and regenerative capacity as well as having interaction with hypoxia-inducing factor, thymosin beta 4 is considered a doping agent under section 2 of the Prohibited List.

17.5.10. **Safety:** Thymosin Beta-4 has been administered in one phase I, one small therapeutic trial and an uncontrolled case series. The single phase I study investigated the effects of single and multiple doses of thymosin β-4 in healthy volunteers who underwent intravenous administration of a sterile pharmaceutical company manufactured product in doses ranging from 42 mg up to 1260 mg[99]. After a single dose to 40 participants, the multi-dose phase of the study was conducted involving 20 volunteers from the first single dose group plus another 20 volunteers who all underwent daily injections for 14 days. A wide range of mostly mild and reversible adverse effects (as judged by a drug in development for therapy of patients with serious illness), more frequently in those receiving thymosin β-4 compared with placebo, were recorded but no serious adverse effects, dose-limiting toxicity or deaths were reported. Follow-up for risk of cancer promotion was limited to 6 months.

A placebo-controlled therapeutic study involved 72 patients with venous stasis ulcers who were randomised to one of 3 doses (concentrations) of topical application of a dermal gel containing thymosin β-4 or placebo for 12 weeks. Despite a study design that was favourable to the trial product by excluding common underlying diseases that delay wound healing (eg arterial disease, diabetes), the study found no significant overall benefit of any dose of thymosin β-4 on wound healing. The failure of

thymosin β4 to effectively heal venous ulcers in a single study has many possible explanations which remains consistent with thymosin β4 still being an effective drug. These reasons include suboptimal study design for some or all of the following reasons: wrong patient population, inadequate dosage regimen, too small a sample or too short treatment. For a first-in-human therapeutic trial, safety precautions always dictate the use of the minimum dosage regimen likely to be effective. This standard precaution may tend to underestimate the drug's optimal efficacy. Hence inadequate efficacy in the first human therapeutic trial is not surprising and does not mean the drug is necessarily ineffective. It is well understood that even if a drug does ultimately prove ineffective or unsafe for human therapeutic use, it may still be abused by elite athletes with doping intent.

A small and uncontrolled case series based on compassionate use approval claimed benefits of thymosin β-4 ophthalmic solution for improving epithelial regrowth of chronic non-healing corneal ulcers [100].

17.5.11. The use of thymosin β4 in pre-registration human therapeutic trials is not the same as the drug having been approved or registered for marketing. Early, pre-registration therapeutic trials for a new, unapproved drug are always conducted under the ethical jurisdiction of, and monitoring by, a human research ethics committee (HREC). Among many other conditions, this requires the patient to provide written informed consent to the unproven treatment. Registration of a drug for therapeutic use requires a sequence of large and complex clinical therapeutic trials which must be completed satisfactorily before the drug dossier is submitted for registration. If it is successful, the drug is approved for general marketing as a proven treatment of a specific medical disease or condition. After registration the therapeutic use of the drug no longer requires ethical approval and informed consent for treatment and may be prescribed by a duly qualified and registered medical practitioner for that indication.

17.5.12. No form of thymosin β_4 is yet approved for human therapeutic use anywhere in the world. In concert, these findings would only support the safety of thymosin β-4 for therapeutic use using a pharmaceutical grade product under the ethical approval and supervision of a HREC for a valid medical indication. No usage outside carefully monitored and ethically approved therapeutic trials is acceptable medical practice in 21st century Australia.

17.6. Thymosin α1

17.6.1. WADA Status: Not banned

Thymosin α1 is registered for human therapeutic use in several countries so is not S0. The countries that registered thymosin α1 for therapeutic use are less developed and developing countries with national drug regulatory affairs bureaus having limited within-agency expertise and uncertain transparency. Thymosin α1 is not registered by any major national or regional regulatory agency. Although immune modifying effects can be considered as a growth factor for lymphocytes, thymosin α1 does not have any of the specific physiological or pharmacological growth factor properties outlined under S2.

17.6.2. Chemical structure:

Thymosin α1 is 28 amino acid peptide depicted in the adjacent figure using standard three letter codes for the different amino acids. The peptide is not glycosylated and the N terminus is acetyated.

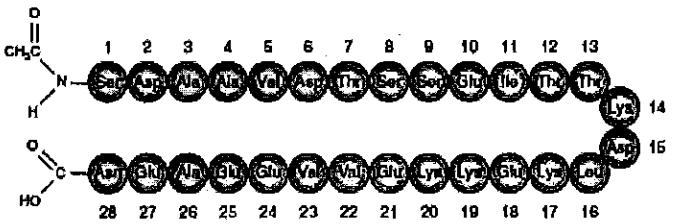


Figure 1. Structural formula of thymosin α_1.

17.6.3. Physiological and pharmacological effects

Thymosin α1 has a wide variety of physiological and pharmacological effects based on experimental studies in animals, cells and cell-free systems. The major physiological and pharmacological effects of thymosin α1 are immunomodulatory or immunostimulant effects that include induction of immune

competence for maturing lymphocytes within the thymus, enhancing immune responses to infective agents or anti-cancer activity via stimulation of immune function of lymphocyte subpopulations.

17.6.4. **Clinical therapeutic trials and registration**

Thymosin α_1 has been marketed in a variety of countries for treatment of hepatitis B and C and "immune stimulant and adjuvant" effects involving co-ordinate activation of the innate and adaptive immune systems [101]. Other potential therapeutic benefits, none having sufficient proof to achieve marketing status, include adjuvant boosting of vaccine effectiveness, anti-cancer efficacy, enhancing recovery from infectious illness, immunodeficiency and cancer chemotherapy-induced myelosuppression [102-107]. It is notable that these approvals were solely in less developed and developing countries whose national regulatory agencies have limited in-agency drug regulatory expertise. They are often reliant on decisions of the major regulatory agencies in developed countries such as USA (FDA), Canada (Health Canada), UK (MHRA), Germany (BfARM), Sweden (MPA), Netherlands (MEB) and Australia (TGA). Notably thymosin α_1 is not approved by any of the major national regulatory agencies.

18. ***Human Therapeutic Trials***

18.1. A valid indication for medical treatment is a reason that makes it advisable to administer a specific drug or treatment to prevent, treat or cure a medical disease or condition. An indication must be well justified by correct diagnosis of an established medical disease, sound understanding of the disease pathophysiology and adequate clinical evidence of therapeutic benefit with acceptable safety. On the contrary, there is no medical indication to treat a healthy person without any known disease with a prescription medication.

18.2. Conduct of human therapeutic trials in Australia is a highly regulated activity. In Australia, the administration to any person of a new, unapproved drug for therapeutic purposes can only occur with prior approval from a Human Research Ethics Committee (HREC). No such therapeutic trial can commence without full and final prior HREC approval. This approval requires the trial sponsor (the person, institution or agency who takes legal responsibility for the proposed therapeutic trial) and the responsible doctor to submit a detailed clinical trial protocol for review to the HREC. Typically, this protocol must include details of a reasonable rationale for the study balancing risks against benefits. It must also provide an acceptable justification for the proposed treatment (dose, duration, drug formulation) based on the drug's known physiology, pharmacology, pre-clinical toxicology and the available experience from previous human therapeutic trials. In evaluating the safety of any new non-marketed drug, production in a GMP-licensed facility would be expected especially for a drug intended to be administered to the whole body by injection, implantation or transdermal application.

18.3. A mandatory component of any therapeutic trial is the requirement for written informed consent for the participants. This is achieved by providing the potential participants with an approved patient information statement and consent forms (PIS/CF) which must explain, to the satisfaction of the HREC, in clear, non-technical terms the reason for the study, the requirement for participation in the study, the risks and benefit of participating in the trial, what are the alternatives to participation and what remedies are available in the event of adverse effects. The explanation in the PIS/CF must be sufficient to make clear to potential participant all the study requirements as well as likely risks and benefits so that their signature can be deemed to constitute informed consent for participation in the study. Meeting these requirements, including responding to question from the HREC usually requires multiple submission over a couple of months.

18.4. In addition, for a therapeutic trial of any new, non-approved drug or even approved drugs when used "off-label" in an experimental setting, the Therapeutic Goods Administration (TGA) must give its approval for the study to proceed. This can be through either the Clinical Trial Notification (CTN) or Clinical Trial Exemption (CTX) schemes. Only after all approvals are completed can the study commence. During the study the HREC continues to monitor the study's safety by requiring timely

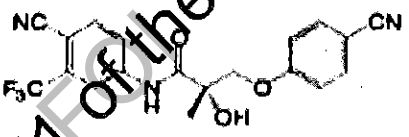
reports of any adverse effects with an evaluation of their severity and likelihood of being due to the drug. In addition, study lead investigators must complete an annual report to the HREC on the study's progress which summarises all adverse effects observed.

19. ***SARM S22***

19.1. **WADA Status:** S0, S1.1, S1.2
S1.2: S22 is a SARM
S1.1: S22 is an exogenous androgen, a substance with similar chemical structure and biological effects as other synthetic androgens
S0: S22 has never been approved by any regulatory agency for human therapeutic use

19.2. **Chemical structure:** S22 [108] is an aryl propionamide derivative, one of the early lead compounds in the class of non-steroidal androgens. Its chemical structure is S-3-(4-nitrophenoxy) and S-3-(4-cyanophenoxy) 2-hydroxy-2-methyl-N-(4-cyano-3-trifluromethylphenyl) propionamide [109].

S22



19.3. **Physiology & Pharmacology:** S22 is one of the early generation of non-steroidal androgens collectively referred to as Selective Androgen Receptor Modulators (SARM) [110].

19.4. This novel class of non-steroidal androgens was developed since the 1990s with the aim to develop more selective androgens which would have certain desirable properties, mainly stimulation of muscle growth and strength, without perceived adverse effects on the prostate. Historically this development program is a revival of the failed enterprise to develop a pure anabolic steroid, which is an androgen-based steroid that had the desirable muscle stimulating (anabolic) properties of testosterone without its adverse properties (undesirable virilisation) that render testosterone unsuitable for use in children and women. The remarkable Golden Age of steroid pharmacology - the post-war decades up to the 1970's - developed oral contraception and synthetic glucocorticoids both remaining major components of modern clinical pharmacology and therapeutics. However, during that Golden Age one quest was unsuccessful, the search for a pure anabolic steroid failed comprehensively and was abandoned by the pharmaceutical industry by the 1970's. Subsequent molecular biology explained that this failure was due to the existence of only a single identical androgen receptor in all tissues, rather than different mechanisms of action for testosterone muscle and other androgen target tissues.

19.5. Nevertheless, the wishful impulse for a more selective androgen persisted to be revived in recent decades. The modern revival of this quest for a selective androgen followed developments in the estrogens field where serendipitous discoveries showed that, for still largely unexplained reasons, some anti-estrogens could have beneficial estrogenic effects in certain tissues (e.g. bone, brain) but have equally advantageous effects as anti-estrogens (ie blocking estrogen effects) in other estrogen target tissues (e.g. breast, uterus). These chemicals (based on non-steroidal anti-estrogens) featuring mixed partial agonist/antagonist properties were then termed as being members of a novel class of "selective estrogen receptor modulator" (SERM), although this is actually a marketing term rather than precise pharmacological classification. By wishful analogy, hope triumphing over experience, the existence of SARMs was postulated and has been pursued in a modified framework – this time selectivity is framed as still desirable anabolic effects on muscle but the adverse effects are now stimulatory effects on the prostate (which might promote prostate diseases like prostate cancer).

19.6. S22 is a simple non-steroidal chemical developed in the second generation of orally active, aryl

propionamide SARMs with favourable metabolic effects and prolonged duration of action [108]. As a non-steroidal compound, it would have direct androgenic effects via its interaction with androgen receptors. However, it would lack other testosterone effects such as those mediated via aromatisation (testosterone's conversion to estradiol by the enzyme aromatase) or via androgen amplification (testosterone activation to a more potent androgen, dihydrotestosterone by 5α-reductase enzymes). It is therefore almost certain that S22 would have ergogenic effects due to increasing muscle mass and strength in humans, although this remains to be confirmed for this specific SARM. It is highly likely that this is a correct assumption as the first therapeutic studies of a closely related SARM, enobosarm (also known as osterine, GTx-024 & MK2866) show significant increases in muscle mass, strength and performance [111, 112].

19.7. Although S22 was synthesized and reported as part of a pharmaceutical company pre-clinical development program, it is among the vast majority of compounds that end up as discarded by-products of the search for a promising lead drug that warrants the large-scale investment required to enter a formal therapeutic development program. There is no evidence, nor any likelihood in the foreseeable future, that S22 will ever be developed for therapeutic registration and marketing. On the other hand as a relatively simple chemical it is readily adaptable to large scale industrial manufacture and is readily available from Chinese research chemical websites.

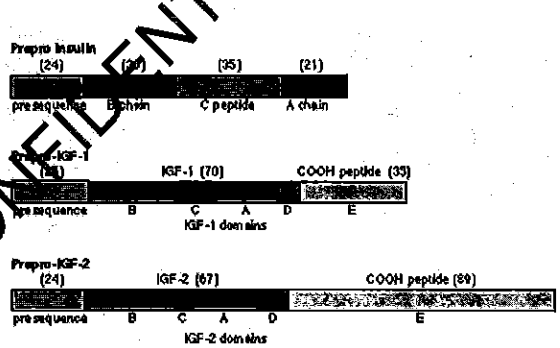
19.8. Thus, as a drug designed to act as an androgen, S22 is considered a doping agent under section 1.2 of the Prohibited List.

19.9. **Safety:** As a non-marketed androgen, there is no human safety data. The use of this compound in Australia would require formal approval of a therapeutic trial by a competent, registered human ethics committee and a CTN or CTX approval for use of a non-marketed drug from the TGA. The pre-clinical data on the use of S22 is too limited to provide any reliable guidance let alone conclusions on its human safety.

20. *Insulin-like Growth Factor 2 (IGF2)*

20.1. **WADA Status:** S2.5 (2011, 2012), S2.4 (2013, 2014), S0
S2.4 or 5: IGF2 has similar chemical and biological effects to insulin and IGF1
S0: IGF2 has never been approved by any regulatory agency for human therapeutic use

20.2. **Chemical structure:** IGF2 is a single chain polypeptide of 67 amino acids as a member of the insulin and insulin-like growth factor family of peptides with underlying structural and functional homology. It is initially secreted in a precursor form of 180 amino acids which is trimmed to the mature peptide in a sequence of processing steps within the secreting cell.



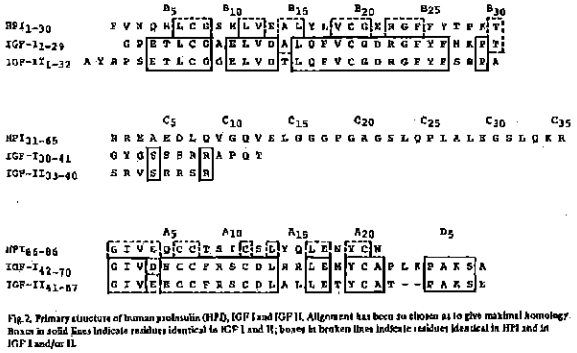
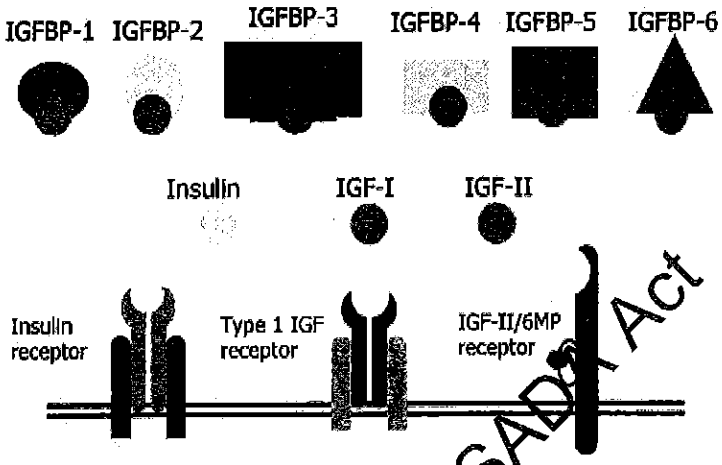


Fig. 2. Primary structure of human proinsulin (HPI), IGF I and IGF II. Alignment has been so chosen as to give maximal homology. Boxes in solid lines indicate residues identical to IGF I and II; boxes in broken lines indicate residues identical in HPI and at IGF I and/or II.

20.3. **Physiology & Pharmacology:** In mammals including humans IGF2 is predominantly a fetal growth factor which is preferentially expressed in early embryonic and fetal development in a wide variety of somatic tissues[113, 114]. In fetal life IGF2 has a major role in the regulation of cell proliferation differentiation, growth, migration and cell survival including the musculoskeletal system whereas in adults its role is unclear but may have local tissue effects supporting cellular maintenance. In fetal and adult humans, IGF2 circulates largely bound to insulin-like growth factor binding proteins (IBFBP) 2 and 3. In adults IGF2 in the bloodstream is principally secreted by the liver but IGF2 is also produced locally within many other mature tissues. IGF2 action is primarily exerted via the IGF1 receptor and the mitogenic isoform type A insulin receptor while binding to the IGFBPs inhibits its effects and binding to the IGF2/mannose-6-phosphate receptor, a non-signalling "sink" receptor, contributes to clearance of IGF2 from the circulation.



Although IGF2 has predominantly prenatal roles, its high circulating levels in adult life together with its actions via the insulin family of receptors, suggests IGF2 has important ongoing physiological roles in postnatal and adult life. IGF2 has growth promoting activity in a wide variety of mature tissues including placenta, blood vessels, immune, bone and bone marrow cells. In the musculoskeletal system, IGF2 has a prominent role in stimulating muscle development, growth and maturation in the fetus. Whether IGF2 has a similar role in mature muscle and especially muscle healing and recovery from muscular injury (including severe training) remains speculative.

20.4. Thus, as a drug designed to act as an insulin-like growth factor with similar biological effects to insulin and IGF1, IGF2 is considered a doping agent under section 2 of the Prohibited List.

20.5. **Safety:** There are no therapeutic trials using IGF2 reported so its drug safety at any dose in humans has not been assessed. Excessive secretion of IGF2 by certain bulky human tumors causes a distinctive syndrome of tumor-related hypoglycaemia (dangerously low blood glucose). Based on its known physiology, pharmacological doses of IGF2 would be expected to risk mitogenic effects (such as promotion of cell proliferation in cancers) and/or causing hypoglycaemia.

21. ***Follistatin***

21.1. **WADA Status:** S0, S4.4
S4.4: Follistatin is an agent modifying myostatin function, a myostatin inhibitor
S0: Follistatin has never been approved by any regulatory agency for human therapeutic use

21.2. **Chemical structure:** Follistatin is a single chain polypeptide with complex substructural features reflecting its binding properties.

21.3. **Physiology & Pharmacology:** Follistatin is a member of the inhibin-activin-follistatin family of proteins which interact with the transforming growth factor (TGF) ß superfamily of proteins. Follistatin was originally identified as an activin-binding protein and subsequently wider interactions with the TGFß superfamily, notably with myostatin for the purposes of this report, have been defined.

21.4. Myostatin (also known as GDF8) is a muscle-specific member of the TGFß superfamily of proteins. Its characteristic physiological property is to limit muscle growth during pre-natal development by limiting the numbers of muscle fibres grown. There is strong evidence that inactivation of myostatin by genetic knockout in mice [115-120] and a variety of others species (cattle, sheep, dogs)[116] including humans [121], leads to excessive muscle growth although the quality of muscular function may be compromised [122]. There is also evidence that myostatin has a postnatal role in limiting growth of the existing stock of muscle fibres. This latter role has led to speculation that myostatin inhibition – by antibodies, dominant negative regulatory proteins or decoy receptor mechanisms - may have beneficial effects on muscle regrowth or turnover in adult life, such as for genetic muscular diseases [123, 124] and after injury [125]. Thus, based on these speculations, inhibition of myostatin has been considered as a mechanism to increase muscle mass and therefore strength and performance in power sports.

Structure of Myostatin·Follistatin-like 3

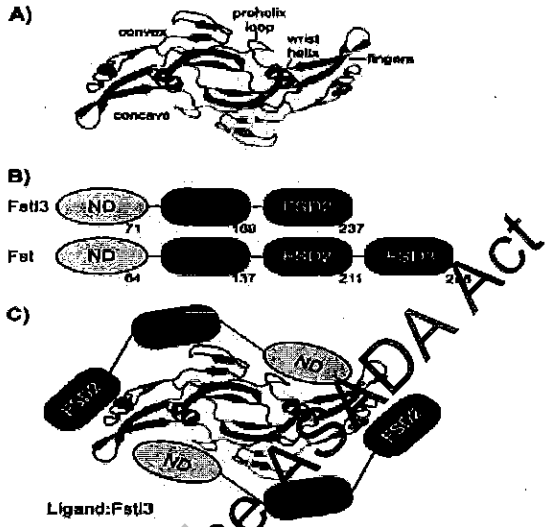


FIGURE 1. TGF-β and Fst-type protein family architecture and interaction. *A*, TGF-β family ligands form disulfide-bonded dimers with distinct architectural features, as labeled. Myostatin is shown as a representative. *B*, Fst and Fstl3 domain layout with the last residue of each domain shown. *C*, schematic of Fstl3 binding to ligand. The ND blocks the concave type I receptor-binding site, whereas FSD1 and FSD2 bind the convex type II receptor-binding site.

Cash et al. J Biol Chem. 287:1043-53, 2012

21.5. Among various means to inhibit myostatin, follistatin has been considered a likely candidate. Follistatin binds to myostatin and inhibits its myogenic activity [115, 126]. Hence administration of follistatin may be considered as a potential doping agent with non-androgenic effects to increase muscle mass and strength. Whether this is effective or not in humans remains to be assessed.

21.6. **Safety:** There are no reported therapeutic trials with any form of follistatin so that human safety of this protein has not been assessed.

Conclusion

All these peptides and chemicals are covered by the WADA category of S0 and all by at least one other category.

None has been approved for any human therapeutic use rendering them all covered by S0.

In Australia, as non-approved drugs, these chemicals may only be used under supervision of a competent HREC for a valid medical indication or justifiable therapeutic research trial. This requires an approved, fully informed consent procedure and with TGA approval under the CTN or CTX scheme. In the absence of these clinical governance features, administration by injection or other means of these non-approved peptides to healthy humans is unacceptably risky and constitutes reckless and irresponsible behaviour.

Sourcing of peptides for injection into healthy humans using material manufactured outside a properly certified GMP production facility is unacceptable for safety reasons. GMP documentation is required to prove the authenticity of the product, purity from adulteration, sterility and non-pyrogenicity.

In considering the risks of administration, in addition to the authentic pharmacological effects of the peptides themselves and the uncertainty of safe dosing, the additional risks of non-approved products include toxic effects of unknown adulterants, of infections from non-sterile formulations, teratogenicity and, with repeated

use, carcinogenicity. As a result it is advisable that athletes exposed to repeated or prolonged use of peptides with GH stimulating effects be considered for long-term surveillance for the common cancers of the young adult age (testis, lymphomas).

The administration of such non-approved peptides by injection or other means, or even sanctioning their use by unqualified persons, by a doctor could be considered professional misconduct by the Medical Board of Australia. Administration by any medically unqualified person is risky, reckless and such behaviour should be considered as practising medicine without a license.

DJ Handelsman
November 2014

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Appendix - Relevant expertise:

Current appointment:

- Inaugural Professor/Director, ANZAC Research Institute (1998-present)
- Inaugural Head, Andrology Department, Concord Hospital (1999-present)
- Professor of Reproductive Endocrinology & Andrology (1996, Personal Chair, Univ of Sydney)

Professional training:

- MB BS (1974, Univ of Melbourne)
- Medical specialist qualification in Endocrinology (1980, FRACP)

Research training:

- PhD (1984, Univ of Sydney)
- NHMRC Neil Hamilton Fairley Postdoctoral Fellow, Harbor-UCLA (1984-6)
- Wellcome Senior Research (Postdoctoral) Fellow, Univ of Sydney (1987-9)

Service to research, professional and health policy advisory bodies:

- WHO Human Reproduction Programme (1988-1994)
- Australian Drug Evaluation Committee (1994-1998)
- President, Endocrine Society of Australia (1992-4)
- Secretary, International Society of Andrology (1997-2001)
- Chair, Endocrine Society of Australia's writing group (2000) to create the 1st national testosterone prescribing guidelines; adopted and remain the PBS prescribing criteria
- NHMRC Grants (Reproduction, Endocrinology) & Fellowship Panels for >25 years
- Inaugural member, Board of Andrology Australia (1999-present)
- Inaugural Chair, Scientific Advisory Board, Freemasons Foundation Centre for Men's Health, University of Adelaide (2007-present)
- Crown expert witness, Full Bench, Federal Court of Australia, highest court hearing testimony from non-legal experts
- Invited submission, House of Representatives Standing Committee on Health and Ageing's review of impotence medications.

Anti-doping research and expertise:

- Expert advisory panel, Australian Sports Drug Medical Advisory Committee (1999-present)
- Anti-Doping Research Panel (2002-14)
- World Anti-Doping Agency's Health, Medicine and Research Committee (2011-6)
- ASADA Advisory Group (2011-present)

Research track-record (since 1980):

- 340 peer-reviewed papers; 132 book chapters, reviews & reports; 439 scientific abstracts.
- Papers cited >12,000 times, average 23 citation/paper, h factor 58 (ISI Web of Science).
- Most actively cited author world-wide on "testosterone" (GOPUBMED database)
- Invited chapters in major textbooks of Endocrinology (De Groot's *Endocrinology*; Wass & Shalet's *Oxford Textbook of Endocrinology and Diabetes*) and Reproductive Biology (Knobil & Neill, *Physiology of Reproduction*).
- Served 14 editorial boards of peer-reviewed journals including currently Associate Editor, Male Reproduction, *JCEM* (2010-14) & Deputy Editor, *Asian Journal of Andrology* (2007-present).
- Invited ad hoc reviewer for 127 different peer-review journals
- Continuous research grant and contract funding since 1980 from peer-reviewed international and national funding agencies as well as the pharmaceutical industry
- Awards: Royal Australasian College of Physician's Susman Prize (1994); inaugural AMA Men's Health Award (2003); Honorary Life Member, Endocrine Society of Australia (2008).
- Supervised or co-supervised 22 PhD and 11 other graduate students.

BBC NEWS

HEALTH

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Northwick Park drug trial disaster - could it happen again?

By Philippa Roxby
Health reporter, BBC News

Before any new medicine can be given to patients, detailed information about how it works and how safe it is must be collected.

Clinical trials are the key to getting that data - and without volunteers to take part in the trials, there would be no new treatments for serious diseases such as cancer, multiple sclerosis and arthritis.

But one disastrous drug trial at a London hospital in 2006 threatened to derail that system.

In what became known as the Elephant Man trial, **six healthy young men were treated for organ failure** after experiencing a serious reaction within hours of taking the drug TGN1412 in a clinical trial.

After they were all admitted to intensive care, two became critically ill, the worst affected lost his fingers and toes, and all the men were subsequently told they would be likely to develop cancers or auto-immune diseases as a result of their exposure to the drug.

In follow-up interviews, **the men described feeling like their brains were "on fire" and their "eyeballs were going to pop out"**.

Experts queued up to say the outcome of the trial had been unprecedented and exceptional, but could it happen again?

Prof David Webb, professor of therapeutics and clinical pharmacology at the University of Edinburgh and vice president of the British Pharmacological Society, says it is "much less likely to happen again".

He says things have changed for the better since 2006, following a number of recommendations made in the Duff Report, written in response to the trial.

"The MHRA [Medicines and Health products Regulatory Agency] now ensures committees look at pre-clinical data, to decide whether the first dose given to humans is the right dose and has rules for stopping if things don't go as expected."

This is particularly important when trials involve drugs that affect the immune system, he says.

But is it possible to eliminate the risks entirely?

"You can mitigate against the risks, but nothing is 100% certain. We can never be sure," Prof Webb says.

The trial, which was privately run at a research facility at Northwick Park Hospital in north London, involved the first testing of a new drug on humans. This is the initial phase in assessing the safety of a drug before moving onto larger-scales studies in patients themselves.

The report said **Parexel**, the company managing the trial, had been unclear about a safe dose to start testing on humans and it should have tested the drug on one person at a time.

The MHRA, which regulates clinical trials and medicines in the UK, and which was criticised at the time for giving the green light to

the TGN1412 trial, says the conduct on these phase-one trials "has moved on significantly".

"Additional provisions and guidance has been put in place for certain novel products to provide as much assurance on safety as possible," the agency says.

It adds that it has simplified and streamlined the regulation of clinical trials and collaborated with other bodies and experts to collect as much information as possible on risk factors before a trial is authorised.

Phase-one trials, when drugs are tested on humans for the first time, only happen after extensive testing on tissue samples and animals in the lab.

Getting this stage right before moving onto research in humans is crucial.

Dr Catherine Elliott, director of clinical research interests at the Medical Research Council, which funds clinical trials in the UK and globally, says there is a move to refine the models used at the pre-clinical stage.

"Animal models are the mainstay, but we are trying to develop other models too to have more tailored disease models."

She says researchers are making use of brain imaging to understand the mechanisms of illness in humans and using IT to predict the effects of new drugs.

Testing on animals, which has its own controversies, can get scientists so far - but someone always has to be the first person to test a new medicine.

The volunteers for phase-one clinical tests always have to be healthy young men because of the risk to a woman's eggs or foetus.

Prof Webb says we are indebted to the 50 to 100 people in the UK each year who step forward to begin the testing of every new drug.

"There are so many effective medicines for cancer, heart disease et cetera - and they all come from volunteers who have taken part in small, early studies."

He believes that everyone who wants to should be able to register themselves available for clinical research through their GP.

"I would argue that everyone should be a volunteer. We'd get the payback eventually because by the time we're in our 60s and 70s most of us will end up on medicines."

Although volunteers are compensated for their time and inconvenience during the trial, they are not paid for taking part - and Dr Elliott says this is the correct approach.

"There shouldn't be an incentive to do something they wouldn't otherwise do. It shouldn't be related to risk. People have to be able to give free consent."

Despite all this, there appears to have been no reduction in interest in participating in early-stage trials since Northwick Park.

The MHRA says the number of UK clinical trial authorisation applications has been fairly stable at 900-1,000 per year since May 2004.

Prof Webb says he has always found it relatively easy to find volunteers for the "first in man" trials he oversees at his approved research centre in Edinburgh.

The MHRA is in no doubt about the safety of drug trials, seven years on from Northwick Park.

A representative said: "Clinical trials in the UK have an excellent safety record and they play a vital role in the development of new medicines, providing evidence so that clinicians can make informed prescribing decisions.

"Safety problems associated with clinical trials are rare and the risk of a repeat of the incident in 2006 concerning the TGN1412 drug is extremely low."

More Health stories

Drug trials process

Before a drug is tested on humans, it goes through laboratory and animal testing. Medicines are also tested for toxicity before being given to people.

Then there are four stages of drug testing in humans.

Phase I - studies, on a small number of healthy volunteers, to understand what effects a new medicine has on human subjects - what happens to the compound in the body from the time it is swallowed or injected until it is excreted. Study participants are monitored for side effects.

Phase II - designed to evaluate the safety and efficacy of a drug in patients who are at the same stage of a specific disease or condition. They are given various doses of a compound and closely monitored.

Phase III - used to confirm a new drug's safety and efficacy, while working out the best dosage regimen. Studies are carried out in large numbers of patients with a specific disease or condition. Safety and efficacy is compared to the currently accepted standard treatment.

Phase IV - these studies take place after the drug has been approved for marketing. They evaluate the long-term effects of the drug in larger numbers of patients, sub-populations of patients. Less common adverse events may be detected.

WORLD ANTI-DOPING AGENCY
play true

The World Anti-Doping Code

THE 2010 PROHIBITED LIST

INTERNATIONAL STANDARD

The official text of the *Prohibited List* shall be maintained by *WADA* and shall be published in English and French. In the event of any conflict between the English and French versions, the English version shall prevail.

This List shall come into effect on 1 January 2010

The Prohibited List 2010
19 September 2009

THE 2010 PROHIBITED LIST
WORLD ANTI-DOPING CODE

Valid 1 January 2010

All *Prohibited Substances* shall be considered as "Specified Substances" except Substances in classes S1, S2.1 to S2.5, S.4.4 and S6.a, and *Prohibited Methods* M1, M2 and M3.

SUBSTANCES AND METHODS PROHIBITED AT ALL TIMES (IN- AND OUT-OF-COMPETITION)

PROHIBITED SUBSTANCES

S1. ANABOLIC AGENTS

Anabolic agents are prohibited.

1. Anabolic Androgenic Steroids (AAS)

a. Exogenous* AAS, including:

1-androstendiol (5α-androst-1-ene-3β,17β-diol); **1-androstendione** (5α-androst-1-ene-3,17-dione); **bolandiol** (19-norandrostenediol); **bolasterone; boldenone; boldione** (androsta-1,4-diene-3,17-dione); **calusterone; clostebol; danazol** (17α-ethynyl-17β-hydroxyandrost-4-eno[2,3-d]isoxazole); **dehydrochlormethyltestosterone** (4-chloro-17β-hydroxy-17α-methylandrosta-1,4-dien-3-one); **desoxymethyltestosterone** (17α-methyl-5α-androst-2-en-17β-ol); **drostanolone; ethylestrenol** (19-nor-17α-pregn-4-en-17-ol); **fluoxymesterone; formebolone; furazabol** (17β-hydroxy-17α-methyl-5α-androstano[2,3-c]-furazan); **gestrinone; 4-hydroxytestosterone** (4,17β-dihydroxyandrost-4-en-3-one); **mestanolone; mesterolone; metenolone; methandienone** (17β-hydroxy-17α-methylandrosta-1,4-dien-3-one); **methandriol; methasterone** (2α, 17α-dimethyl-5α-androstane-3-one-17β-ol); **methyldienolone** (17β-hydroxy-17α-methylestra-4,9-dien-3-one); **methyl-1-testosterone** (17β-hydroxy-17α-methyl-5α-androst-1-en-3-one); **methylnortestosterone** (17β-hydroxy-17α-methylestr-4-en-3-one); **methyltestosterone; metribolone** (methyltrienolone, 17β-hydroxy-17α-methylestra-4,9,11-trien-3-one); **mibolerone; nandrolone; 19-norandrostenedione** (estr-4-ene-3,17-dione); **norboletone; norclostebol; norethandrolone; oxabolone; oxandrolone; oxymesterone; oxymetholone; prostanozol** (17β-hydroxy-5α-androstano[3,2-c] pyrazole); **quinbolone;**

stanozolol; stenbolone; 1-testosterone (17β-hydroxy-5α-androst-1-en-3-one)**; tetrahydrogestrinone** (18a-homo-pregna-4,9,11-trien-17β-ol-3-one)**; trenbolone** and other substances with a similar chemical structure or similar biological effect(s).

b. Endogenous** AAS when administered exogenously:

androstenediol (androst-5-ene-3β,17β-diol)**; androstenedione** (androst-4-ene-3,17-dione)**; dihydrotestosterone** (17β-hydroxy-5α-androstan-3-one) **; prasterone** (dehydroepiandrosterone, DHEA)**; testosterone**
and the following metabolites and isomers:

5α-androstane-3α,17α-diol; 5α-androstane-3α,17β-diol; 5α-androstane-3β,17α-diol; 5α-androstane-3β,17β-diol; androst-4-ene-3α,17α-diol; androst-4-ene-3α,17β-diol; androst-4-ene-3β,17α-diol; androst-5-ene-3α,17α-diol; androst-5-ene-3α,17β-diol; androst-5-ene-3β,17α-diol; 4-androstenediol (androst-4-ene-3β,17β-diol)**; 5-androstenedione** (androst-5-ene-3,17-dione)**; epi-dihydrotestosterone; epitestosterone; 3α-hydroxy-5α-androstan-17-one; 3β-hydroxy-5α-androstan-17-one; 19-norandrosterone; 19-noretiocholanolone.**

2. Other Anabolic Agents, including but not limited to:

Clenbuterol, selective androgen receptor modulators (SARMs), tibolone, zeranol, zilpaterol.

For purposes of this section:
** "exogenous" refers to a substance which is not ordinarily capable of being produced by the body naturally.*
*** "endogenous" refers to a substance which is capable of being produced by the body naturally.*

S2. PEPTIDE HORMONES, GROWTH FACTORS AND RELATED SUBSTANCES

The following substances and their releasing factors are prohibited:

1. **Erythropoiesis-Stimulating Agents** [e.g. **erythropoietin (EPO), darbepoetin (dEPO), methoxy polyethylene glycol-epoetin beta (CERA), hematide];**
2. **Chorionic Gonadotrophin (CG) and Luteinizing Hormone (LH)** in males;
3. **Insulins;**
4. **Corticotrophins;**

5. **Growth Hormone (GH), Insulin-like Growth Factor-1 (IGF-1), Mechano Growth Factors (MGFs), Platelet-Derived Growth Factor (PDGF), Fibroblast Growth Factors (FGFs), Vascular-Endothelial Growth Factor (VEGF) and Hepatocyte Growth Factor (HGF)** as well as any other growth factor affecting muscle, tendon or ligament protein synthesis/degradation, vascularisation, energy utilization, regenerative capacity or fibre type switching;
6. **Platelet-derived preparations (e.g. Platelet Rich Plasma, "blood spinning")** administered by intramuscular route. Other routes of administration require a declaration of *Use* in accordance with the International Standard for Therapeutic Use Exemptions.

and other substances with similar chemical structure or similar biological effect(s).

S3. BETA-2 AGONISTS

All beta-2 agonists (including both optical isomers where relevant) are prohibited except salbutamol (maximum 1600 micrograms over 24 hours) and salmeterol by inhalation which require a declaration of *Use* in accordance with the International Standard for Therapeutic Use Exemptions.

The presence of salbutamol in urine in excess of 1000 ng/mL is presumed not to be an intended therapeutic use of the substance and will be considered as an *Adverse Analytical Finding* unless the *Athlete* proves, through a controlled pharmacokinetic study, that the abnormal result was the consequence of the use of a therapeutic dose (maximum 1600 micrograms over 24 hours) of inhaled salbutamol.

S4. HORMONE ANTAGONISTS AND MODULATORS

The following classes are prohibited:

1. **Aromatase inhibitors** including, but not limited to: **aminoglutethimide, anastrozole, androsta-1,4,6-triene-3,17-dione (androstatrienedione), 4-androstene-3,6,17 trione (6-oxo), exemestane, formestane, letrozole, testolactone.**

2. **Selective estrogen receptor modulators (SERMs)** including, but not limited to**: raloxifene, tamoxifen, toremifene.**

3. **Other anti-estrogenic substances** including, but not limited to: **clomiphene, cyclofenil, fulvestrant.**

4. **Agents modifying myostatin function(s)** including but not limited to: **myostatin inhibitors.**

S5. DIURETICS AND OTHER MASKING AGENTS

Masking agents are prohibited. They include:
Diuretics, probenecid, plasma expanders (e.g. **glycerol**; intravenous administration of **albumin, dextran, hydroxyethyl starch** and **mannitol)** and other substances with similar biological effect(s).

Diuretics include:
Acetazolamide, amiloride, bumetanide, canrenone, chlorthalidone, etacrynic acid, furosemide, indapamide, metolazone, spironolactone, thiazides (e.g. **bendroflumethiazide, chlorothiazide, hydrochlorothiazide), triamterene**, and other substances with a similar chemical structure or similar biological effect(s) (except drosperinone, pamabrom and topical dorzolamide and brinzolamide, which are not prohibited).

A Therapeutic Use Exemption for diuretics and masking agents is not valid if an *Athlete*'s urine contains such substance(s) in association with threshold or sub-threshold levels of an exogenous *Prohibited Substance*(s).

PROHIBITED METHODS

M1. ENHANCEMENT OF OXYGEN TRANSFER

The following are prohibited:

1. Blood doping, including the use of autologous, homologous or heterologous blood or red blood cell products of any origin.

2. Artificially enhancing the uptake, transport or delivery of oxygen, including but not limited to perfluorochemicals, efaproxiral (RSR13) and modified haemoglobin products (e.g. haemoglobin-based blood substitutes, microencapsulated haemoglobin products), excluding supplemental oxygen.

M2. CHEMICAL AND PHYSICAL MANIPULATION

1. *Tampering,* or attempting to tamper, in order to alter the integrity and validity of *Samples* collected during *Doping Controls* is prohibited. These include but are not limited to catheterisation, urine substitution and/or adulteration (e.g. proteases).

2. Intravenous infusions are prohibited except for those legitimately received in the course of hospital admissions or clinical investigations.

M3. GENE DOPING

The following, with the potential to enhance athletic performance, are prohibited:

1- The transfer of cells or genetic elements (e.g. DNA, RNA);

2- The use of pharmacological or biological agents that alter gene expression.

Peroxisome Proliferator Activated Receptor δ (PPARδ) agonists (e.g. GW 1516) and PPARδ-AMP-activated protein kinase (AMPK) axis agonists (e.g. AICAR) are prohibited.

SUBSTANCES AND METHODS PROHIBITED IN-COMPETITION

In addition to the categories S1 to S5 and M1 to M3 defined above, the following categories are prohibited in competition:

PROHIBITED SUBSTANCES

S6. STIMULANTS

All stimulants (including both optical isomers where relevant) are prohibited, except imidazole derivatives for topical use and those stimulants included in the 2010 Monitoring Program*.

Stimulants include:

a: Non-Specified Stimulants:

Adrafinil; amfepramone; amiphenazole; amphetamine; amphetaminil; benfluorex; benzphetamine; benzylpiperazine; bromantan; clobenzorex; cocaine; cropropamide; crotetamide; dimethylamphetamine; etilamphetamine; famprofazone; fencamine; fenetylline; fenfluramine; fenproporex; furfenorex; mefenorex; mephentermine; mesocarb; methamphetamine(*d*-); p-methylamphetamine; methylenedioxyamphetamine; methylenedioxymethamphetamine; methylhexaneamine (dimethylpentylamine); modafinil; norfenfluramine; phendimetrazine; phenmetrazine; phentermine; 4-phenylpiracetam (carphedon); prenylamine; prolintane.
A stimulant not expressly listed in this section is a Specified Substance.

b: Specified Stimulants (examples):

Adrenaline; cathine***; ephedrine****; etamivan; etilefrine; fenbutrazate; fencamfamin; heptaminol; isometheptene; levmetamphetamine; meclofenoxate; methylephedrine****; methylphenidate; nikethamide; norfenefrine; octopamine; oxilofrine; parahydroxyamphetamine; pemoline; pentetrazol; phenpromethamine; propylhexedrine; pseudoephedrine*****; selegiline; sibutramine; strychnine; tuaminoheptane** and other substances with a similar chemical structure or similar biological effect(s).

* The following substances included in the 2010 Monitoring Program (bupropion, caffeine, phenylephrine, phenylpropanolamine, pipradol, synephrine) are not considered as *Prohibited Substances*.
** **Adrenaline** associated with local anaesthetic agents or by local administration (e.g. nasal, ophthalmologic) is not prohibited.
*** **Cathine** is prohibited when its concentration in urine is greater than 5 micrograms per milliliter.
**** Each of **ephedrine** and **methylephedrine** is prohibited when its concentration in urine is greater than 10 micrograms per milliliter.
***** **Pseudoephedrine** is prohibited when its concentration in urine is greater than 150 micrograms per milliliter.

S7. NARCOTICS

The following narcotics are prohibited:

Buprenorphine, dextromoramide, diamorphine (heroin), fentanyl and its derivatives, hydromorphone, methadone, morphine, oxycodone, oxymorphone, pentazocine, pethidine.

S8. CANNABINOIDS

Natural or synthetic Δ9-tetrahydrocannabinol (THC) and THC-like cannabinoids (e.g. hashish, marijuana, HU-210) are prohibited.

S9. GLUCOCORTICOSTEROIDS

All glucocorticosteroids are prohibited when administered by oral, intravenous, intramuscular or rectal routes.

In accordance with the International Standard for Therapeutic Use Exemptions, a declaration of *Use* must be completed by the *Athlete* for glucocorticosteroids administered by intraarticular, periarticular, peritendinous, epidural, intradermal and inhalation routes, except as noted below.

Topical preparations when used for auricular, buccal, dermatological (including iontophoresis/phonophoresis), gingival, nasal, ophthalmic and perianal disorders are not prohibited and require neither a Therapeutic Use Exemption nor a declaration of *Use*.

SUBSTANCES PROHIBITED IN PARTICULAR SPORTS

P1. ALCOHOL

Alcohol (ethanol) is prohibited *In-Competition* only, in the following sports. Detection will be conducted by analysis of breath and/or blood. The doping violation threshold (haematological values) is 0.10 g/L.

- Aeronautic (FAI)
- Archery (FITA)
- Automobile (FIA)
- Karate (WKF)
- Modern Pentathlon (UIPM) for disciplines involving shooting
- Motorcycling (FIM)
- Ninepin and Tenpin Bowling (FIQ)
- Powerboating (UIM)

P2. BETA-BLOCKERS

Unless otherwise specified, beta-blockers are prohibited *In-Competition* only, in the following sports.

- Aeronautic (FAI)
- Archery (FITA) (also prohibited *Out-of-Competition*)
- Automobile (FIA)
- Billiards and Snooker (WCBS)
- Bobsleigh (FIBT)
- Boules (CMSB)
- Bridge (FMB)
- Curling (WCF)
- Golf (IGF)
- Gymnastics (FIG)
- Motorcycling (FIM)
- Modern Pentathlon (UIPM) for disciplines involving shooting
- Ninepin and Tenpin Bowling (FIQ)
- Powerboating (UIM)
- Sailing (ISAF) for match race helms only
- Shooting (ISSF, IPC) (also prohibited *Out-of-Competition*)
- Skiing/Snowboarding (FIS) in ski jumping, freestyle aerials/halfpipe and snowboard halfpipe/big air
- Wrestling (FILA)

Beta-blockers include, but are not limited to, the following:

Acebutolol, alprenolol, atenolol, betaxolol, bisoprolol, bunolol, carteolol, carvedilol, celiprolol, esmolol, labetalol, levobunolol, metipranolol, metoprolol, nadolol, oxprenolol, pindolol, propranolol, sotalol, timolol.

WORLD ANTI-DOPING AGENCY

The World Anti-Doping Code

THE 2011 PROHIBITED LIST

INTERNATIONAL STANDARD

The official text of the *Prohibited List* shall be maintained by *WADA* and shall be published in English and French. In the event of any conflict between the English and French versions, the English version shall prevail.

This List shall come into effect on 1 January 2011

THE 2011 PROHIBITED LIST
WORLD ANTI-DOPING CODE

Valid 1 January 2011

All *Prohibited Substances* shall be considered as "Specified Substances" except Substances in classes S1, S2.1 to S2.5, S.4.4 and S6.a, and *Prohibited Methods* M1, M2 and M3.

SUBSTANCES AND METHODS PROHIBITED AT ALL TIMES (IN- AND OUT-OF-COMPETITION)

S0. NON-APPROVED SUBSTANCES

Any pharmacological substance which is not addressed by any of the subsequent sections of the List and with no current approval by any governmental regulatory health authority for human therapeutic use (i.e. drugs under pre-clinical or clinical development or discontinued) is prohibited at all times.

PROHIBITED SUBSTANCES

S1. ANABOLIC AGENTS

Anabolic agents are prohibited.

1. Anabolic Androgenic Steroids (AAS)

a. Exogenous* AAS, including:

1-androstenediol (5α-androst-1-ene-3β,17β-diol); **1-androstenedione** (5α-androst-1-ene-3,17-dione); **bolandiol** (19-norandrostenediol); **bolasterone; boldenone; boldione** (androsta-1,4-diene-3,17-dione); **calusterone; clostebol; danazol** (17α-ethynyl-17β-hydroxyandrost-4-eno[2,3-d]isoxazole); **dehydrochlormethyltestosterone** (4-chloro-17β-hydroxy-17α-methylandrosta-1,4-dien-3-one); **desoxymethyltestosterone** (17α-methyl-5α-androst-2-en-17β-ol); **drostanolone; ethylestrenol** (19-nor-17α-pregn-4-en-17-ol); **fluoxymesterone; formebolone; furazabol** (17β-hydroxy-17α-methyl-5α-

androstano[2,3-c]-furazan); **gestrinone; 4-hydroxytestosterone** (4,17β-dihydroxyandrost-4-en-3-one); **mestanolone; mesterolone; metenolone; methandienone** (17β-hydroxy-17α-methylandrosta-1,4-dien-3-one); **methandriol; methasterone** (2α, 17α-dimethyl-5α-androstane-3-one-17β-ol); **methyldienolone** (17β-hydroxy-17α-methylestra-4,9-dien-3-one); **methyl-1-testosterone** (17β-hydroxy-17α-methyl-5α-androst-1-en-3-one); **methylnortestosterone** (17β-hydroxy-17α-methylestr-4-en-3-one); **methyltestosterone; metribolone** (methyltrienolone, 17β-hydroxy-17α-methylestra-4,9,11-trien-3-one); **mibolerone; nandrolone; 19-norandrostenedione** (estr-4-ene-3,17-dione); **norboletone; norclostebol; norethandrolone; oxabolone; oxandrolone; oxymesterone; oxymetholone; prostanozol** (17β-hydroxy-5α-androstano[3,2-c] pyrazole); **quinbolone; stanozolol; stenbolone; 1-testosterone** (17β-hydroxy-5α-androst-1-en-3-one); **tetrahydrogestrinone** (18a-homo-pregna-4,9,11-trien-17β-ol-3-one); **trenbolone;** and other substances with a similar chemical structure or similar biological effect(s).

b. Endogenous** AAS when administered exogenously:

androstenediol (androst-5-ene-3β,17β-diol); **androstenedione** (androst-4-ene-3,17-dione); **dihydrotestosterone** (17β-hydroxy-5α-androstan-3-one); **prasterone** (dehydroepiandrosterone, DHEA); **testosterone**
and the following metabolites and isomers:

5α-androstane-3α,17α-diol; 5α-androstane-3α,17β-diol; 5α-androstane-3β,17α-diol; 5α-androstane-3β,17β-diol; androst-4-ene-3α,17α-diol; androst-4-ene-3α,17β-diol; androst-4-ene-3β,17α-diol; androst-5-ene-3α,17α-diol; androst-5-ene-3α,17β-diol; androst-5-ene-3β,17α-diol; 4-androstenediol (androst-4-ene-3β,17β-diol); **5-androstenedione** (androst-5-ene-3,17-dione); **epi-dihydrotestosterone; epitestosterone; 3α-hydroxy-5α-androstan-17-one; 3β-hydroxy-5α-androstan-17-one; 19-norandrosterone; 19-noretiocholanolone.**

2. Other Anabolic Agents, including but not limited to:

Clenbuterol, selective androgen receptor modulators (SARMs), tibolone, zeranol, zilpaterol.

For purposes of this section:
** "exogenous" refers to a substance which is not ordinarily capable of being produced by the body naturally.*
*** "endogenous" refers to a substance which is capable of being produced by the body naturally.*

S2. PEPTIDE HORMONES, GROWTH FACTORS AND RELATED SUBSTANCES

The following substances and their releasing factors are prohibited:

1. **Erythropoiesis-Stimulating Agents** [e.g. **erythropoietin (EPO), darbepoetin (dEPO), hypoxia-inducible factor (HIF) stabilizers, methoxy polyethylene glycol-epoetin beta (CERA), peginesatide (Hematide)];**

2. **Chorionic Gonadotrophin (CG) and Luteinizing Hormone (LH)** in males;

3. **Insulins;**

4. **Corticotrophins;**

5. **Growth Hormone (GH), Insulin-like Growth Factor-1 (IGF-1), Fibroblast Growth Factors (FGFs), Hepatocyte Growth Factor (HGF), Mechano Growth Factors (MGFs), Platelet-Derived Growth Factor (PDGF), Vascular-Endothelial Growth Factor (VEGF)** as well as any other growth factor affecting muscle, tendon or ligament protein synthesis/degradation, vascularisation, energy utilization, regenerative capacity or fibre type switching;

and other substances with similar chemical structure or similar biological effect(s).

S3. BETA-2 AGONISTS

All beta-2 agonists (including both optical isomers where relevant) are prohibited except salbutamol (maximum 1600 micrograms over 24 hours) and salmeterol when taken by inhalation in accordance with the manufacturers' recommended therapeutic regime.

The presence of salbutamol in urine in excess of 1000 ng/mL is presumed not to be an intended therapeutic use of the substance and will be considered as an *Adverse Analytical Finding* unless the *Athlete* proves, through a controlled pharmacokinetic study, that the abnormal result was the consequence of the use of a therapeutic dose (maximum 1600 micrograms over 24 hours) of inhaled salbutamol.

S4. HORMONE ANTAGONISTS AND MODULATORS

The following classes are prohibited:

1. **Aromatase inhibitors** including, but not limited to: **aminoglutethimide, anastrozole, androsta-1,4,6-triene-3,17-dione (androstatrienedione), 4-androstene-3,6,17 trione (6-oxo), exemestane, formestane, letrozole, testolactone.**

2. **Selective estrogen receptor modulators (SERMs)** including, but not limited to: **raloxifene, tamoxifen, toremifene.**

3. **Other anti-estrogenic substances** including, but not limited to: **clomiphene, cyclofenil, fulvestrant.**

4. **Agents modifying myostatin function(s)** including, but not limited, to: **myostatin inhibitors.**

S5. DIURETICS AND OTHER MASKING AGENTS

Masking agents are prohibited. They include:
Diuretics, desmopressin, plasma expanders (e.g. **glycerol**; intravenous administration of **albumin, dextran, hydroxyethyl starch** and **mannitol), probenecid;** and other substances with similar biological effect(s).

Diuretics include:
Acetazolamide, amiloride, bumetanide, canrenone, chlorthalidone, etacrynic acid, furosemide, indapamide, metolazone, spironolactone, thiazides (e.g. **bendroflumethiazide, chlorothiazide, hydrochlorothiazide), triamterene**; and other substances with a similar chemical structure or similar biological effect(s) (except drosperinone, pamabrom and topical dorzolamide and brinzolamide, which are not prohibited).

The use *In-* and *Out-of-Competition,* as applicable, of any quantity of a substance subject to threshold limits (i.e. salbutamol, morphine, cathine, ephedrine, methylephedrine and pseudoephedrine) in conjunction with a diuretic or other masking agent requires the deliverance of a specific Therapeutic Use Exemption for that substance in addition to the one granted for the diuretic or other masking agent.

PROHIBITED METHODS

M1. ENHANCEMENT OF OXYGEN TRANSFER

The following are prohibited:

1. Blood doping, including the use of autologous, homologous or heterologous blood or red blood cell products of any origin.

2. Artificially enhancing the uptake, transport or delivery of oxygen, including, but not limited to, perfluorochemicals, efaproxiral (RSR13) and modified haemoglobin products (e.g. haemoglobin-based blood substitutes, microencapsulated haemoglobin products), excluding supplemental oxygen.

M2. CHEMICAL AND PHYSICAL MANIPULATION

The following is prohibited:

1. *Tampering,* or attempting to tamper, in order to alter the integrity and validity of *Samples* collected during *Doping Control* is prohibited. These include but are not limited to catheterisation, urine substitution and/or adulteration (e.g. proteases).

2. Intravenous infusions are prohibited except for those legitimately received in the course of hospital admissions or clinical investigations.

3. Sequential withdrawal, manipulation and reinfusion of whole blood into the circulatory system is prohibited.

M3. GENE DOPING

The following, with the potential to enhance sport performance, are prohibited:

1. The transfer of nucleic acids or nucleic acid sequences;

2. The use of normal or genetically modified cells;

3. The use of agents that directly or indirectly affect functions known to influence performance by altering gene expression. For example, Peroxisome Proliferator Activated Receptor δ (PPARδ) agonists (e.g. GW 1516) and PPARδ-AMP-activated protein kinase (AMPK) axis agonists (e.g. AICAR) are prohibited.

SUBSTANCES AND METHODS PROHIBITED IN-COMPETITION

In addition to the categories S0 to S5 and M1 to M3 defined above, the following categories are prohibited *In-Competition*:

PROHIBITED SUBSTANCES

S6. STIMULANTS

All stimulants (including both optical isomers where relevant) are prohibited, except imidazole derivatives for topical use and those stimulants included in the 2011 Monitoring Program*.

Stimulants include:

a: Non-Specified Stimulants:

Adrafinil; amfepramone; amiphenazole; amphetamine; amphetaminil; benfluorex; benzphetamine; benzylpiperazine; bromantan; clobenzorex; cocaine; cropropamide; crotetamide; dimethylamphetamine; etilamphetamine; famprofazone; fencamine; fenetylline; fenfluramine; fenproporex; furfenorex; mefenorex; mephentermine; mesocarb; methamphetamine(*d*-); p-methylamphetamine; methylenedioxyamphetamine; methylenedioxymethamphetamine; modafinil; norfenfluramine; phendimetrazine; phenmetrazine; phentermine; 4-phenylpiracetam (carphedon); prenylamine; prolintane.
A stimulant not expressly listed in this section is a Specified Substance.

b: Specified Stimulants (examples):

Adrenaline; cathine**; ephedrine****; etamivan; etilefrine; fenbutrazate; fencamfamin; heptaminol; isometheptene; levmetamfetamine; meclofenoxate; methylephedrine****; methylhexaneamine (dimethylpentylamine); methylphenidate; nikethamide; norfenefrine; octopamine; oxilofrine; parahydroxyamphetamine; pemoline; pentetrazol; phenpromethamine; propylhexedrine; pseudoephedrine*****; selegiline; sibutramine; strychnine; tuaminoheptane;** and other substances with a similar chemical structure or similar biological effect(s).

* The following substances included in the 2011 Monitoring Program (bupropion, caffeine, phenylephrine, phenylpropanolamine, pipradol, synephrine) are not considered as *Prohibited Substances*.

** **Adrenaline** associated with local anaesthetic agents or by local administration (e.g. nasal, ophthalmologic) is not prohibited.

*** **Cathine** is prohibited when its concentration in urine is greater than 5 micrograms per milliliter.

**** Each of **ephedrine** and **methylephedrine** is prohibited when its concentration in urine is greater than 10 micrograms per milliliter.

***** **Pseudoephedrine** is prohibited when its concentration in urine is greater than 150 micrograms per milliliter.

S7. NARCOTICS

The following are prohibited:

Buprenorphine, dextromoramide, diamorphine (heroin), fentanyl and its derivatives, hydromorphone, methadone, morphine, oxycodone, oxymorphone, pentazocine, pethidine.

S8. CANNABINOIDS

Natural (e.g. cannabis, hashish, marijuana) or synthetic delta 9-tetrahydrocannabinol (THC) and cannabimimetics [e.g. "Spice" (containing JWH018, JWH073), HU-210] are prohibited.

S9. GLUCOCORTICOSTEROIDS

All glucocorticosteroids are prohibited when administered by oral, intravenous, intramuscular or rectal routes.

SUBSTANCES PROHIBITED IN PARTICULAR SPORTS

P1. ALCOHOL

Alcohol (ethanol) is prohibited *In-Competition* only, in the following sports. Detection will be conducted by analysis of breath and/or blood. The doping violation threshold (haematological values) is 0.10 g/L.

- Aeronautic (FAI)
- Archery (FITA)
- Automobile (FIA)
- Karate (WKF)
- Motorcycling (FIM)
- Ninepin and Tenpin Bowling (FIQ)
- Powerboating (UIM)

P2. BETA-BLOCKERS

Unless otherwise specified, beta-blockers are prohibited *In-Competition* only, in the following sports.

- Aeronautic (FAI)
- Archery (FITA) (also prohibited *Out-of-Competition*)
- Automobile (FIA)
- Billiards and Snooker (WCBS)
- Bobsleigh and Skeleton (FIBT)
- Boules (CMSB)
- Bridge (FMB)
- Curling (WCF)
- Darts (WDF)
- Golf (IGF)
- Motorcycling (FIM)
- Modern Pentathlon (UIPM) for disciplines involving shooting
- Ninepin and Tenpin Bowling (FIQ)
- Powerboating (UIM)
- Sailing (ISAF) for match race helms only
- Shooting (ISSF, IPC) (also prohibited *Out-of-Competition*)
- Skiing/Snowboarding (FIS) in ski jumping, freestyle aerials/halfpipe and snowboard halfpipe/big air
- Wrestling (FILA)

Beta-blockers include, but are not limited to, the following:

Acebutolol, alprenolol, atenolol, betaxolol, bisoprolol, bunolol, carteolol, carvedilol, celiprolol, esmolol, labetalol, levobunolol, metipranolol, metoprolol, nadolol, oxprenolol, pindolol, propranolol, sotalol, timolol.

WORLD ANTI-DOPING AGENCY

The World Anti-Doping Code

THE 2012 PROHIBITED LIST

INTERNATIONAL STANDARD

The official text of the *Prohibited List* shall be maintained by *WADA* and shall be published in English and French. In the event of any conflict between the English and French versions, the English version shall prevail.

This List shall come into effect on 1 January 2012

The 2012 Prohibited List
24 August 2011

THE 2012 PROHIBITED LIST
WORLD ANTI-DOPING CODE

Valid 1 January 2012

In accordance with Article 4.2.2 of the World Anti-Doping Code, all *Prohibited Substances* shall be considered as "Specified Substances" except Substances in classes S1, S2, S4.4, S4.5, S6.a, and *Prohibited Methods* M1, M2 and M3.

SUBSTANCES AND METHODS PROHIBITED AT ALL TIMES (IN- AND OUT-OF-COMPETITION)

PROHIBITED SUBSTANCES

S0. NON-APPROVED SUBSTANCES

Any pharmacological substance which is not addressed by any of the subsequent sections of the List and with no current approval by any governmental regulatory health authority for human therapeutic use (e.g drugs under pre-clinical or clinical development or discontinued, designer drugs, veterinary medicines) is prohibited at all times.

S1. ANABOLIC AGENTS

Anabolic agents are prohibited.

1. Anabolic Androgenic Steroids (AAS)

a. Exogenous* AAS, including:

1-androstenediol (5α-androst-1-ene-3β,17β-diol); **1-androstenedione** (5α-androst-1-ene-3,17-dione); **bolandiol** (estr-4-ene-3β,17β-diol); **bolasterone; boldenone; boldione** (androsta-1,4-diene-3,17-dione); **calusterone; clostebol; danazol** (17α-ethynyl-17β-hydroxyandrost-4-eno[2,3-d]isoxazole); **dehydrochlormethyltestosterone** (4-chloro-17β-hydroxy-17α-methylandrosta-

1,4-dien-3-one); **desoxymethyltestosterone** (17α-methyl-5α-androst-2-en-17β-ol); **drostanolone; ethylestrenol** (19-nor-17α-pregn-4-en-17-ol); **fluoxymesterone; formebolone; furazabol** (17β-hydroxy-17α-methyl-5α-androstano[2,3-c]-furazan); **gestrinone; 4-hydroxytestosterone** (4,17β-dihydroxyandrost-4-en-3-one); **mestanolone; mesterolone; metenolone; methandienone** (17β-hydroxy-17α-methylandrosta-1,4-dien-3-one); **methandriol; methasterone** (2α, 17α-dimethyl-5α-androstane-3-one-17β-ol); **methyldienolone** (17β-hydroxy-17α-methylestra-4,9-dien-3-one); **methyl-1-testosterone** (17β-hydroxy-17α-methyl-5α-androst-1-en-3-one); **methylnortestosterone** (17β-hydroxy-17α-methylestr-4-en-3-one); **methyltestosterone; metribolone** (methyltrienolone, 17β-hydroxy-17α-methylestra-4,9,11-trien-3-one); **mibolerone; nandrolone; 19-norandrostenedione** (estr-4-ene-3,17-dione); **norboletone; norclostebol; norethandrolone; oxabolone; oxandrolone; oxymesterone; oxymetholone; prostanozol** (17β-hydroxy-5α-androstano[3,2-c] pyrazole); **quinbolone; stanozolol; stenbolone; 1-testosterone** (17β-hydroxy-5α-androst-1-en-3-one); **tetrahydrogestrinone** (18a-homo-pregna-4,9,11-trien-17β-ol-3-one); **trenbolone;** and other substances with a similar chemical structure or similar biological effect(s).

b. Endogenous** AAS when administered exogenously:

androstenediol (androst-5-ene-3β,17β-diol); **androstenedione** (androst-4-ene-3,17-dione); **dihydrotestosterone** (17β-hydroxy-5α-androstan-3-one); **prasterone** (dehydroepiandrosterone, DHEA); **testosterone**
and their metabolites and isomers, including but not limited to:

5α-androstane-3α,17α-diol; 5α-androstane-3α,17β-diol; 5α-androstane-3β,17α-diol; 5α-androstane-3β,17β-diol; androst-4-ene-3α,17α-diol; androst-4-ene-3α,17β-diol; androst-4-ene-3β,17α-diol; androst-5-ene-3α,17α-diol; androst-5-ene-3α,17β-diol; androst-5-ene-3β,17α-diol; 4-androstenediol (androst-4-ene-3β,17β-diol); **5-androstenedione** (androst-5-ene-3,17-dione); **epi-dihydrotestosterone; epitestosterone; 3α-hydroxy-5α-androstan-17-one; 3β-hydroxy-5α-androstan-17-one; 7α-hydroxy-DHEA ; 7β-hydroxy-DHEA ; 7-keto-DHEA; 19-norandrosterone; 19-noretiocholanolone.**

2. Other Anabolic Agents, including but not limited to:

Clenbuterol, selective androgen receptor modulators (SARMs), tibolone, zeranol, zilpaterol.

For purposes of this section:
** "exogenous" refers to a substance which is not ordinarily capable of being produced by the body naturally.*

** *"endogenous" refers to a substance which is capable of being produced by the body naturally.*

S2. PEPTIDE HORMONES, GROWTH FACTORS AND RELATED SUBSTANCES

The following substances and their releasing factors are prohibited:

1. **Erythropoiesis-Stimulating Agents** [e.g. **erythropoietin (EPO), darbepoetin (dEPO), hypoxia-inducible factor (HIF) stabilizers, methoxy polyethylene glycol-epoetin beta (CERA), peginesatide (Hematide)];**

2. **Chorionic Gonadotrophin (CG) and Luteinizing Hormone (LH)** in males;

3. **Insulins;**

4. **Corticotrophins;**

5. **Growth Hormone (GH), Insulin-like Growth Factor-1 (IGF-1), Fibroblast Growth Factors (FGFs), Hepatocyte Growth Factor (HGF), Mechano Growth Factors (MGFs), Platelet-Derived Growth Factor (PDGF), Vascular-Endothelial Growth Factor (VEGF)** as well as any other growth factor affecting muscle, tendon or ligament protein synthesis/degradation, vascularisation, energy utilization, regenerative capacity or fibre type switching;

and other substances with similar chemical structure or similar biological effect(s).

S3. BETA-2 AGONISTS

All beta-2 agonists (including both optical isomers where relevant) are prohibited except salbutamol (maximum 1600 micrograms over 24 hours), formoterol (maximum 36 micrograms over 24 hours) and salmeterol when taken by inhalation in accordance with the manufacturers' recommended therapeutic regime.

The presence in urine of salbutamol in excess of 1000 ng/mL or formoterol in excess of 30 ng/mL is presumed not to be an intended therapeutic use of the substance and will be considered as an *Adverse Analytical Finding* unless the *Athlete* proves, through a controlled pharmacokinetic study, that the abnormal result was the consequence of the use of the therapeutic inhaled dose up to the maximum indicated above.

S4. HORMONE AND METABOLIC MODULATORS

The following are prohibited:

1. **Aromatase inhibitors** including, but not limited to: **aminoglutethimide, anastrozole, androsta-1,4,6-triene-3,17-dione (androstatrienedione), 4-androstene-3,6,17 trione (6-oxo), exemestane, formestane, letrozole, testolactone.**

2. **Selective estrogen receptor modulators (SERMs)** including, but not limited to: **raloxifene, tamoxifen, toremifene.**

3. **Other anti-estrogenic substances** including, but not limited to: **clomiphene, cyclofenil, fulvestrant.**

4. **Agents modifying myostatin function(s)** including, but not limited, to: **myostatin inhibitors.**

5. **Metabolic modulators: Peroxisome Proliferator Activated Receptor δ (PPARδ) agonists (e.g. GW 1516), PPARδ-AMP-activated protein kinase (AMPK) axis agonists (e.g. AICAR)**

S5. DIURETICS AND OTHER MASKING AGENTS

Masking agents are prohibited. They include:
Diuretics, desmopressin, plasma expanders (e.g. **glycerol**; intravenous administration of **albumin, dextran, hydroxyethyl starch** and **mannitol), probenecid;** and other substances with similar biological effect(s). Local application of felypressin in dental anaesthesia is not prohibited.

Diuretics include:
Acetazolamide, amiloride, bumetanide, canrenone, chlorthalidone, etacrynic acid, furosemide, indapamide, metolazone, spironolactone, thiazides (e.g. **bendroflumethiazide, chlorothiazide, hydrochlorothiazide), triamterene**; and other substances with a similar chemical structure or similar biological effect(s) (except drospirenone, pamabrom and topical dorzolamide and brinzolamide, which are not prohibited).

The use *In-* and *Out-of-Competition,* as applicable, of any quantity of a substance subject to threshold limits (i.e. formoterol, salbutamol, morphine, cathine, ephedrine, methylephedrine and pseudoephedrine) in conjunction with a diuretic or other masking agent requires the deliverance of a specific Therapeutic Use Exemption for that substance in addition to the one granted for the diuretic or other masking agent.

PROHIBITED METHODS

M1. ENHANCEMENT OF OXYGEN TRANSFER

The following are prohibited:

1. Blood doping, including the use of autologous, homologous or heterologous blood or red blood cell products of any origin.

2. Artificially enhancing the uptake, transport or delivery of oxygen, including, but not limited to, perfluorochemicals, efaproxiral (RSR13) and modified haemoglobin products (e.g. haemoglobin-based blood substitutes, microencapsulated haemoglobin products), excluding supplemental oxygen.

M2. CHEMICAL AND PHYSICAL MANIPULATION

The following are prohibited:

1. *Tampering,* or attempting to tamper, in order to alter the integrity and validity of *Samples* collected during *Doping Control* is prohibited. These include but are not limited to urine substitution and/or adulteration (e.g. proteases).

2. Intravenous infusions and/or injections of more than 50 mL per 6 hour period are prohibited except for those legitimately received in the course of hospital admissions or clinical investigations.

3. Sequential withdrawal, manipulation and reintroduction of any quantity of whole blood into the circulatory system.

M3. GENE DOPING

The following, with the potential to enhance sport performance, are prohibited:

1. The transfer of nucleic acids or nucleic acid sequences;

2. The use of normal or genetically modified cells.

SUBSTANCES AND METHODS PROHIBITED IN-COMPETITION

In addition to the categories S0 to S5 and M1 to M3 defined above, the following categories are prohibited *In-Competition*:

PROHIBITED SUBSTANCES

S6. STIMULANTS

All stimulants (including both optical isomers where relevant) are prohibited, except imidazole derivatives for topical use and those stimulants included in the 2012 Monitoring Program*.

Stimulants include:

a: Non-Specified Stimulants:

Adrafinil; amfepramone; amiphenazole; amphetamine; amphetaminil; benfluorex; benzphetamine; benzylpiperazine; bromantan; clobenzorex; cocaine; cropropamide; crotetamide; dimethylamphetamine; etilamphetamine; famprofazone; fencamine; fenetylline; fenfluramine; fenproporex; furfenorex; mefenorex; mephentermine; mesocarb; methamphetamine(*d*-); p-methylamphetamine; methylenedioxyamphetamine; methylenedioxymethamphetamine; modafinil; norfenfluramine; phendimetrazine; phenmetrazine; phentermine; 4-phenylpiracetam (carphedon); prenylamine; prolintane.
A stimulant not expressly listed in this section is a Specified Substance.

b: Specified Stimulants (examples):

Adrenaline; cathine***; ephedrine****; etamivan; etilefrine; fenbutrazate; fencamfamin; heptaminol; isometheptene; levmetamfetamine; meclofenoxate; methylephedrine****; methylhexaneamine (dimethylpentylamine); methylphenidate; niketha mide; norfenefrine; octopamine; oxilofrine; parahydroxyamphetamine; pemoline; pentetrazol; phenpromethamine; propylhexedrine; pseudoephedrine*****; selegiline; sibutramine; strychnine; tuaminoheptane;** and other substances with a similar chemical structure or similar biological effect(s).

* The following substances included in the 2012 Monitoring Program (bupropion, caffeine, nicotine, phenylephrine, phenylpropanolamine, pipradol, synephrine) are not considered as *Prohibited Substances*.
** Local administration (e.g. nasal, ophthalmologic) of **Adrenaline** or co-administration with local anaesthetic agents is not prohibited.
*** **Cathine** is prohibited when its concentration in urine is greater than 5 micrograms per milliliter.
**** Each of **ephedrine** and **methylephedrine** is prohibited when its concentration in urine is greater than 10 micrograms per milliliter.
***** **Pseudoephedrine** is prohibited when its concentration in urine is greater than 150 micrograms per milliliter.

S7. NARCOTICS

The following are prohibited:

Buprenorphine, dextromoramide, diamorphine (heroin), fentanyl and its derivatives, hydromorphone, methadone, morphine, oxycodone, oxymorphone, pentazocine, pethidine.

S8. CANNABINOIDS

Natural (e.g. cannabis, hashish, marijuana) or synthetic delta 9-tetrahydrocannabinol (THC) and cannabimimetics [e.g. "Spice" (containing JWH018, JWH073), HU-210] are prohibited.

S9. GLUCOCORTICOSTEROIDS

All glucocorticosteroids are prohibited when administered by oral, intravenous, intramuscular or rectal routes.

SUBSTANCES PROHIBITED IN PARTICULAR SPORTS

P1. ALCOHOL

Alcohol (ethanol) is prohibited *In-Competition* only, in the following sports. Detection will be conducted by analysis of breath and/or blood. The doping violation threshold (haematological values) is 0.10 g/L.

- Aeronautic (FAI)
- Archery (FITA)
- Automobile (FIA)
- Karate (WKF)
- Motorcycling (FIM)
- Powerboating (UIM)

P2. BETA-BLOCKERS

Unless otherwise specified, beta-blockers are prohibited *In-Competition* only, in the following sports.

- Aeronautic (FAI)
- Archery (FITA) (also prohibited *Out-of-Competition*)
- Automobile (FIA)
- Billiards (all disciplines) (WCBS)
- Boules (CMSB)
- Bridge (FMB)
- Darts (WDF)
- Golf (IGF)
- Ninepin and Tenpin Bowling (FIQ)
- Powerboating (UIM)
- Shooting (ISSF, IPC) (also prohibited *Out-of-Competition*)
- Skiing/Snowboarding (FIS) in ski jumping, freestyle aerials/halfpipe and snowboard halfpipe/big air

Beta-blockers include, but are not limited to, the following:

Acebutolol, alprenolol, atenolol, betaxolol, bisoprolol, bunolol, carteolol, carvedilol, celiprolol, esmolol, labetalol, levobunolol, metipranolol, metoprolol, nadolol, oxprenolol, pindolol, propranolol, sotalol, timolol.

WORLD ANTI-DOPING AGENCY

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THE 2013 PROHIBITED LIST

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This List shall come into effect on 1 January 2013-

THE 2013 PROHIBITED LIST
WORLD ANTI-DOPING CODE

Valid 1 January 2013

In accordance with Article 4.2.2 of the World Anti-Doping Code, all *Prohibited Substances* shall be considered as "Specified Substances" except Substances in classes S1, S2, S4.4, S4.5, S6.a, and *Prohibited Methods* M1, M2 and M3.

SUBSTANCES AND METHODS PROHIBITED AT ALL TIMES (IN- AND OUT-OF-COMPETITION)

PROHIBITED SUBSTANCES

S0. NON-APPROVED SUBSTANCES

Any pharmacological substance which is not addressed by any of the subsequent sections of the List and with no current approval by any governmental regulatory health authority for human therapeutic use (e.g drugs under pre-clinical or clinical development or discontinued, designer drugs, substances approved only for veterinary use) is prohibited at all times.

S1. ANABOLIC AGENTS

Anabolic agents are prohibited.

1. Anabolic Androgenic Steroids (AAS)

a. Exogenous* AAS, including:

1-androstenediol (5α-androst-1-ene-3β,17β-diol)**; 1-androstenedione** (5α-androst-1-ene-3,17-dione)**; bolandiol** (estr-4-ene-3β,17β-diol)**; bolasterone; boldenone; boldione** (androsta-1,4-diene-3,17-dione)**; calusterone; clostebol; danazol** ([1,2]oxazolo[4',5':2,3]pregna-4-en-20-yn-17α-ol)**;**

dehydrochlormethyltestosterone (4-chloro-17β-hydroxy-17α-methylandrosta-1,4-dien-3-one); **desoxymethyltestosterone** (17α-methyl-5α-androst-2-en-17β-ol); **drostanolone; ethylestrenol** (19-norpregna-4-en-17α-ol); **fluoxymesterone; formebolone; furazabol** (17α-methyl[1,2,5]oxadiazolo[3',4':2,3]-5α-androstan-17β-ol); **gestrinone; 4-hydroxytestosterone** (4,17β-dihydroxyandrost-4-en-3-one); **mestanolone; mesterolone; metenolone; methandienone** (17β-hydroxy-17α-methylandrosta-1,4-dien-3-one); **methandriol; methasterone** (17β-hydroxy-2α,17α-dimethyl-5α-androstan-3-one); **methyldienolone** (17β-hydroxy-17α-methylestra-4,9-dien-3-one); **methyl-1-testosterone** (17β-hydroxy-17α-methyl-5α-androst-1-en-3-one); **methylnortestosterone** (17β-hydroxy-17α-methylestr-4-en-3-one); **methyltestosterone; metribolone** (methyltrienolone, 17β-hydroxy-17α-methylestra-4,9,11-trien-3-one); **mibolerone; nandrolone; 19-norandrostenedione** (estr-4-ene-3,17-dione); **norboletone; norclostebol; norethandrolone; oxabolone; oxandrolone; oxymesterone; oxymetholone; prostanozol** (17β-[(tetrahydropyran-2-yl)oxy]-1'H-pyrazolo[3,4:2,3]-5α-androstane); **quinbolone; stanozolol; stenbolone; 1-testosterone** (17β-hydroxy-5α-androst-1-en-3-one); **tetrahydrogestrinone** (17-hydroxy-18a-homo-19-nor-17α-pregna-4,9,11-trien-3-one); **trenbolone** (17β-hydroxyestr-4,9,11-trien-3-one); and other substances with a similar chemical structure or similar biological effect(s).

b. Endogenous** AAS when administered exogenously:

androstenediol (androst-5-ene-3β,17β-diol); **androstenedione** (androst-4-ene-3,17-dione); **dihydrotestosterone** (17β-hydroxy-5α-androstan-3-one); **prasterone** (dehydroepiandrosterone, DHEA, 3β-hydroxyandrost-5-en-17-one); **testosterone;**
and their metabolites and isomers, including but not limited to:

5α-androstane-3α,17α-diol; 5α-androstane-3α,17β-diol; 5α-androstane-3β,17α-diol; 5α-androstane-3β,17β-diol; androst-4-ene-3α,17α-diol; androst-4-ene-3α,17β-diol; androst-4-ene-3β,17α-diol; androst-5-ene-3α,17α-diol; androst-5-ene-3α,17β-diol; androst-5-ene-3β,17α-diol; 4-androstenediol (androst-4-ene-3β,17β-diol); **5-androstenedione** (androst-5-ene-3,17-dione); **epi-dihydrotestosterone; epitestosterone; etiocholanolone; 3α-hydroxy-5α-androstan-17-one; 3β-hydroxy-5α-androstan-17-one; 7α-hydroxy-DHEA ; 7β-hydroxy-DHEA ; 7-keto-DHEA; 19-norandrosterone; 19-noretiocholanolone.**

2. Other Anabolic Agents, including but not limited to:

Clenbuterol, selective androgen receptor modulators (SARMs), tibolone, zeranol, zilpaterol.

For purposes of this section:

** "exogenous" refers to a substance which is not ordinarily capable of being produced by the body naturally.*

*** "endogenous" refers to a substance which is capable of being produced by the body naturally.*

S2. PEPTIDE HORMONES, GROWTH FACTORS AND RELATED SUBSTANCES

The following substances and their releasing factors are prohibited:

1. **Erythropoiesis-Stimulating Agents** [e.g. **erythropoietin (EPO), darbepoetin (dEPO), hypoxia-inducible factor (HIF) stabilizers, methoxy polyethylene glycol-epoetin beta (CERA), peginesatide (Hematide)];**

2. **Chorionic Gonadotrophin (CG) and Luteinizing Hormone (LH)** in males;

3. **Corticotrophins;**

4. **Growth Hormone (GH), Insulin-like Growth Factor-1 (IGF-1), Fibroblast Growth Factors (FGFs), Hepatocyte Growth Factor (HGF), Mechano Growth Factors (MGFs), Platelet-Derived Growth Factor (PDGF), Vascular-Endothelial Growth Factor (VEGF)** as well as any other growth factor affecting muscle, tendon or ligament protein synthesis/degradation, vascularisation, energy utilization, regenerative capacity or fibre type switching;

and other substances with similar chemical structure or similar biological effect(s).

S3. BETA-2 AGONISTS

All beta-2 agonists, including all optical isomers (e.g. *d*- and *l*-) where relevant, are prohibited except inhaled salbutamol (maximum 1600 micrograms over 24 hours), inhaled formoterol (maximum delivered dose 54 micrograms over 24 hours) and salmeterol when taken by inhalation in accordance with the manufacturers' recommended therapeutic regimen.

The presence in urine of salbutamol in excess of 1000 ng/mL or formoterol in excess of 40 ng/mL is presumed not to be an intended therapeutic use of the substance and will be considered as an *Adverse Analytical Finding* unless the *Athlete* proves, through a controlled pharmacokinetic study, that the abnormal result was the consequence of the use of the therapeutic inhaled dose up to the maximum indicated above.

S4. HORMONE AND METABOLIC MODULATORS

The following are prohibited:

1. **Aromatase inhibitors** including, but not limited to: **aminoglutethimide, anastrozole, androsta-1,4,6-triene-3,17-dione (androstatrienedione), 4-androstene-3,6,17 trione (6-oxo), exemestane, formestane, letrozole, testolactone.**

2. **Selective estrogen receptor modulators (SERMs)** including, but not limited to: **raloxifene, tamoxifen, toremifene.**

3. **Other anti-estrogenic substances** including, but not limited to: **clomiphene, cyclofenil, fulvestrant.**

4. **Agents modifying myostatin function(s)** including, but not limited, to: **myostatin inhibitors.**

5. **Metabolic modulators:**
   a) Insulins
   b) Peroxisome Proliferator Activated Receptor δ (PPARδ) agonists (e.g. GW 1516), PPARδ-AMP-activated protein kinase (AMPK) axis agonists (e.g. AICAR)

S5. DIURETICS AND OTHER MASKING AGENTS

Masking agents are prohibited. They include:
Diuretics, desmopressin, plasma expanders (e.g. **glycerol**; intravenous administration of **albumin, dextran, hydroxyethyl starch** and **mannitol), probenecid;** and other substances with similar biological effect(s).
Local administration of felypressin in dental anaesthesia is not prohibited.

Diuretics include:
Acetazolamide, amiloride, bumetanide, canrenone, chlorthalidone, etacrynic acid, furosemide, indapamide, metolazone, spironolactone, thiazides (e.g. **bendroflumethiazide, chlorothiazide, hydrochlorothiazide), triamterene**; and other substances with a similar chemical structure or similar biological effect(s) (except drospirenone, pamabrom and topical dorzolamide and brinzolamide, which are not prohibited).

The use *In-* and *Out-of-Competition,* as applicable, of any quantity of a substance subject to threshold limits (i.e. formoterol, salbutamol, cathine, ephedrine, methylephedrine and pseudoephedrine) in conjunction with a diuretic or other masking agent requires the deliverance of a specific Therapeutic Use Exemption for that substance in addition to the one granted for the diuretic or other masking agent.

PROHIBITED METHODS

M1. MANIPULATION OF BLOOD AND BLOOD COMPONENTS

The following are prohibited:

1. The administration or reintroduction of any quantity of autologous, homologous or heterologous blood or red blood cell products of any origin into the circulatory system.

2. Artificially enhancing the uptake, transport or delivery of oxygen, including, but not limited to, perfluorochemicals, efaproxiral (RSR13) and modified haemoglobin products (e.g. haemoglobin-based blood substitutes, microencapsulated haemoglobin products), excluding supplemental oxygen.

3. Any form of intravascular manipulation of the blood or blood components by physical or chemical means.

M2. CHEMICAL AND PHYSICAL MANIPULATION

The following are prohibited:

1. *Tampering*, or attempting to tamper, in order to alter the integrity and validity of *Samples* collected during *Doping Control*. These include but are not limited to urine substitution and/or adulteration (e.g. proteases).

2. Intravenous infusions and/or injections of more than 50 mL per 6 hour period except for those legitimately received in the course of hospital admissions or clinical investigations.

M3. GENE DOPING

The following, with the potential to enhance sport performance, are prohibited:

1. The transfer of polymers of nucleic acids or nucleic acid analogues;

2. The use of normal or genetically modified cells.

SUBSTANCES AND METHODS PROHIBITED IN-COMPETITION

In addition to the categories S0 to S5 and M1 to M3 defined above, the following categories are prohibited *In-Competition*:

PROHIBITED SUBSTANCES

S6. STIMULANTS

All stimulants, including all optical isomers (e.g. *d*- and *l*-) where relevant, are prohibited, except imidazole derivatives for topical use and those stimulants included in the 2013 Monitoring Program*.

Stimulants include:

a: Non-Specified Stimulants:

Adrafinil; amfepramone; amiphenazole; amphetamine; amphetaminil; benfluorex; benzphetamine; benzylpiperazine; bromantan; clobenzorex; cocaine; cropropamide; crotetamide; dimethylamphetamine; etilamphetamine; famprofazone; fencamine; fenetylline; fenfluramine; fenproporex; furfenorex; mefenorex; mephentermine; mesocarb; methamphetamine(*d*-); p-methylamphetamine; methylenedioxyamphetamine; methylenedioxymethamphetamine; modafinil; norfenfluramine; phendimetrazine; phenmetrazine; phentermine; 4-phenylpiracetam (carphedon); prenylamine; prolintane.
A stimulant not expressly listed in this section is a Specified Substance.

b: Specified Stimulants (examples):

Adrenaline; cathine***; ephedrine****; etamivan; etilefrine; fenbutrazate; fencamfamin; heptaminol; isometheptene; levmetamfetamine; meclofenoxate; methylephedrine****; methylhexaneamine (dimethylpentylamine); methylphenidate; nikethamide; norfenefrine; octopamine; oxilofrine (methylsynephrine); parahydroxyamphetamine; pemoline; pentetrazol; phenpromethamine; propylhexedrine; pseudoephedrine*****; selegiline; sibutramine; strychnine; tuaminoheptane;** and other substances with a similar chemical structure or similar biological effect(s).

* The following substances included in the 2013 Monitoring Program (bupropion, caffeine, nicotine, phenylephrine, phenylpropanolamine, pipradol, synephrine) are not considered as *Prohibited Substances*.
** Local administration (e.g. nasal, ophthalmologic) of **Adrenaline** or co-administration with local anaesthetic agents is not prohibited.
*** **Cathine** is prohibited when its concentration in urine is greater than 5 micrograms per milliliter.
**** Each of **ephedrine** and **methylephedrine** is prohibited when its concentration in urine is greater than 10 micrograms per milliliter.
***** **Pseudoephedrine** is prohibited when its concentration in urine is greater than 150 micrograms per milliliter.

S7. NARCOTICS

The following are prohibited:

Buprenorphine, dextromoramide, diamorphine (heroin), fentanyl and its derivatives, hydromorphone, methadone, morphine, oxycodone, oxymorphone, pentazocine, pethidine.

S8. CANNABINOIDS

Natural (e.g. cannabis, hashish, marijuana) or synthetic delta 9-tetrahydrocannabinol (THC) and cannabimimetics (e.g. "Spice", JWH018, JWH073, HU-210) are prohibited.

S9. GLUCOCORTICOSTEROIDS

All glucocorticosteroids are prohibited when administered by oral, intravenous, intramuscular or rectal routes.

SUBSTANCES PROHIBITED IN PARTICULAR SPORTS

P1. ALCOHOL

Alcohol (ethanol) is prohibited *In-Competition* only, in the following sports. Detection will be conducted by analysis of breath and/or blood. The doping violation threshold (haematological values) is 0.10 g/L.

- Aeronautic (FAI)
- Archery (FITA)
- Automobile (FIA)
- Karate (WKF)
- Motorcycling (FIM)
- Powerboating (UIM)

P2. BETA-BLOCKERS

Unless otherwise specified, beta-blockers are prohibited *In-Competition* only, in the following sports.

- Archery (FITA) (also prohibited *Out-of-Competition*)
- Automobile (FIA)
- Billiards (all disciplines) (WCBS)
- Darts (WDF)
- Golf (IGF)
- Shooting (ISSF, IPC) (also prohibited *Out-of-Competition*)
- Skiing/Snowboarding (FIS) in ski jumping, freestyle aerials/halfpipe and snowboard halfpipe/big air

Beta-blockers include, but are not limited to, the following:

Acebutolol, alprenolol, atenolol, betaxolol, bisoprolol, bunolol, carteolol, carvedilol, celiprolol, esmolol, labetalol, levobunolol, metipranolol, metoprolol, nadolol, oxprenolol, pindolol, propranolol, sotalol, timolol.

WORLD ANTI-DOPING AGENCY

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INTERNATIONAL STANDARD

The official text of the *Prohibited List* shall be maintained by *WADA* and shall be published in English and French. In the event of any conflict between the English and French versions, the English version shall prevail.

This List shall come into effect on 1 January 2014

The 2014 Prohibited List
11 September 2013

THE 2014 PROHIBITED LIST
WORLD ANTI-DOPING CODE

Valid 1 January 2014

In accordance with Article 4.2.2 of the World Anti-Doping Code, all *Prohibited Substances* shall be considered as "Specified Substances" except Substances in classes S1, S2, S4.4, S4.5, S6.a, and *Prohibited Methods* M1, M2 and M3.

SUBSTANCES AND METHODS PROHIBITED AT ALL TIMES (IN- AND OUT-OF-COMPETITION)

PROHIBITED SUBSTANCES

S0. NON-APPROVED SUBSTANCES

Any pharmacological substance which is not addressed by any of the subsequent sections of the List and with no current approval by any governmental regulatory health authority for human therapeutic use (e.g drugs under pre-clinical or clinical development or discontinued, designer drugs, substances approved only for veterinary use) is prohibited at all times.

S1. ANABOLIC AGENTS

Anabolic agents are prohibited.

1. Anabolic Androgenic Steroids (AAS)

a. Exogenous* AAS, including:

1-androstenediol (5α-androst-1-ene-3β,17β-diol); **1-androstenedione** (5α-androst-1-ene-3,17-dione); **bolandiol** (estr-4-ene-3β,17β-diol); **bolasterone; boldenone; boldione** (androsta-1,4-diene-3,17-dione); **calusterone; clostebol; danazol** ([1,2]oxazolo[4',5':2,3]pregna-4-en-20-yn-17α-ol);

dehydrochlormethyltestosterone (4-chloro-17β-hydroxy-17α-methylandrosta-1,4-dien-3-one); **desoxymethyltestosterone** (17α-methyl-5α-androst-2-en-17β-ol); **drostanolone; ethylestrenol** (19-norpregna-4-en-17α-ol); **fluoxymesterone; formebolone; furazabol** (17α-methyl[1,2,5]oxadiazolo[3',4':2,3]-5α-androstan-17β-ol); **gestrinone; 4-hydroxytestosterone** (4,17β-dihydroxyandrost-4-en-3-one); **mestanolone; mesterolone; metandienone** (17β-hydroxy-17α-methylandrosta-1,4-dien-3-one); **metenolone; methandriol; methasterone** (17β-hydroxy-2α,17α-dimethyl-5α-androstan-3-one); **methyldienolone** (17β-hydroxy-17α-methylestra-4,9-dien-3-one); **methyl-1-testosterone** (17β-hydroxy-17α-methyl-5α-androst-1-en-3-one); **methylnortestosterone** (17β-hydroxy-17α-methylestr-4-en-3-one); **methyltestosterone; metribolone** (methyltrienolone, 17β-hydroxy-17α-methylestra-4,9,11-trien-3-one); **mibolerone; nandrolone; 19-norandrostenedione** (estr-4-ene-3,17-dione); **norboletone; norclostebol; norethandrolone; oxabolone; oxandrolone; oxymesterone; oxymetholone; prostanozol** (17β-[(tetrahydropyran-2-yl)oxy]-1'H-pyrazolo[3,4:2,3]-5α-androstane); **quinbolone; stanozolol; stenbolone; 1-testosterone** (17β-hydroxy-5α-androst-1-en-3-one); **tetrahydrogestrinone** (17-hydroxy-18a-homo-19-nor-17α-pregna-4,9,11-trien-3-one); **trenbolone** (17β-hydroxyestr-4,9,11-trien-3-one); and other substances with a similar chemical structure or similar biological effect(s).

b. Endogenous** AAS when administered exogenously:

androstenediol (androst-5-ene-3β,17β-diol); **androstenedione** (androst-4-ene-3,17-dione); **dihydrotestosterone** (17β-hydroxy-5α-androstan-3-one); **prasterone** (dehydroepiandrosterone, DHEA, 3β-hydroxyandrost-5-en-17-one); **testosterone;**
and their metabolites and isomers, including but not limited to:

5α-androstane-3α,17α-diol; 5α-androstane-3α,17β-diol; 5α-androstane-3β,17α-diol; 5α-androstane-3β,17β-diol; androst-4-ene-3α,17α-diol; androst-4-ene-3α,17β-diol; androst-4-ene-3β,17α-diol; androst-5-ene-3α,17α-diol; androst-5-ene-3α,17β-diol; androst-5-ene-3β,17α-diol; 4-androstenediol (androst-4-ene-3β,17β-diol); **5-androstenedione** (androst-5-ene-3,17-dione); **epi-dihydrotestosterone; epitestosterone; etiocholanolone; 3α-hydroxy-5α-androstan-17-one; 3β-hydroxy-5α-androstan-17-one; 7α-hydroxy-DHEA ; 7β-hydroxy-DHEA ; 7-keto-DHEA; 19-norandrosterone; 19-noretiocholanolone.**

2. Other Anabolic Agents, including but not limited to:

Clenbuterol, selective androgen receptor modulators (SARMs), tibolone, zeranol, zilpaterol.

For purposes of this section:

** "exogenous" refers to a substance which is not ordinarily produced by the body naturally.*

*** "endogenous" refers to a substance which is ordinarily produced by the body naturally.*

S2. PEPTIDE HORMONES, GROWTH FACTORS AND RELATED SUBSTANCES

The following substances, and other substances with similar chemical structure or similar biological effect(s), are prohibited:

1. **Erythropoiesis-Stimulating Agents** [e.g. **erythropoietin (EPO), darbepoetin (dEPO), hypoxia-inducible factor (HIF) stabilizers, methoxy polyethylene glycol-epoetin beta (CERA), peginesatide (Hematide)];**

2. **Chorionic Gonadotrophin (CG) and Luteinizing Hormone (LH)** and their releasing factors, in males;

3. **Corticotrophins** and their releasing factors;

4. **Growth Hormone (GH)** and its releasing factors and **Insulin-like Growth Factor-1 (IGF-1).**

In addition, the following growth factors are prohibited

Fibroblast Growth Factors (FGFs), Hepatocyte Growth Factor (HGF), Mechano Growth Factors (MGFs), Platelet-Derived Growth Factor (PDGF), Vascular-Endothelial Growth Factor (VEGF) as well as any other growth factor affecting muscle, tendon or ligament protein synthesis/degradation, vascularisation, energy utilization, regenerative capacity or fibre type switching;

and other substances with similar chemical structure or similar biological effect(s).

S3. BETA-2 AGONISTS

All beta-2 agonists, including all optical isomers (e.g. *d*- and *l*-) where relevant, are prohibited except inhaled salbutamol (maximum 1600 micrograms over 24 hours), inhaled formoterol (maximum delivered dose 54 micrograms over 24 hours) and salmeterol when taken by inhalation in accordance with the manufacturers' recommended therapeutic regimen.

The presence in urine of salbutamol in excess of 1000 ng/mL or formoterol in excess of 40 ng/mL is presumed not to be an intended therapeutic use of the substance and will be considered as an *Adverse Analytical Finding* unless the *Athlete* proves, through a controlled pharmacokinetic study, that the abnormal result was the consequence of the use of the therapeutic inhaled dose up to the maximum indicated above.

S4. HORMONE AND METABOLIC MODULATORS

The following are prohibited:

1. **Aromatase inhibitors** including, but not limited to: **aminoglutethimide, anastrozole, androsta-1,4,6-triene-3,17-dione (androstatrienedione), 4-androstene-3,6,17 trione (6-oxo), exemestane, formestane, letrozole, testolactone.**

2. **Selective estrogen receptor modulators (SERMs)** including, but not limited to: **raloxifene, tamoxifen, toremifene.**

3. **Other anti-estrogenic substances** including, but not limited to: **clomiphene, cyclofenil, fulvestrant.**

4. **Agents modifying myostatin function(s)** including, but not limited, to: **myostatin inhibitors.**

5. **Metabolic modulators:**
   a) Insulins
   b) Peroxisome Proliferator Activated Receptor δ (PPARδ) agonists (e.g. GW 1516), PPARδ-AMP-activated protein kinase (AMPK) axis agonists (e.g. AICAR)

S5. DIURETICS AND OTHER MASKING AGENTS

Masking agents are prohibited. They include:
Diuretics, desmopressin, plasma expanders (e.g. **glycerol**; intravenous administration of **albumin, dextran, hydroxyethyl starch** and **mannitol), probenecid;** and other substances with similar biological effect(s).
Local administration of felypressin in dental anaesthesia is not prohibited.

Diuretics include:
Acetazolamide, amiloride, bumetanide, canrenone, chlortalidone, etacrynic acid, furosemide, indapamide, metolazone, spironolactone, thiazides (e.g. **bendroflumethiazide, chlorothiazide, hydrochlorothiazide), triamterene**, **vaptans (**e.g. **tolvaptan);** and other substances with a similar

chemical structure or similar biological effect(s) (except drospirenone, pamabrom and topical dorzolamide and brinzolamide, which are not prohibited).

The use *In-* and *Out-of-Competition,* as applicable, of any quantity of a substance subject to threshold limits (i.e. formoterol, salbutamol, cathine, ephedrine, methylephedrine and pseudoephedrine) in conjunction with a diuretic or other masking agent requires the deliverance of a specific Therapeutic Use Exemption for that substance in addition to the one granted for the diuretic or other masking agent.

PROHIBITED METHODS

M1. MANIPULATION OF BLOOD AND BLOOD COMPONENTS

The following are prohibited:

1. The administration or reintroduction of any quantity of autologous, allogenic (homologous) or heterologous blood or red blood cell products of any origin into the circulatory system.

2. Artificially enhancing the uptake, transport or delivery of oxygen, including, but not limited to, perfluorochemicals, efaproxiral (RSR13) and modified haemoglobin products (e.g. haemoglobin-based blood substitutes, microencapsulated haemoglobin products), excluding supplemental oxygen.

3. Any form of intravascular manipulation of the blood or blood components by physical or chemical means.

M2. CHEMICAL AND PHYSICAL MANIPULATION

The following are prohibited:

1. *Tampering,* or attempting to tamper, in order to alter the integrity and validity of *Samples* collected during *Doping Control*. These include but are not limited to urine substitution and/or adulteration (e.g. proteases).

2. Intravenous infusions and/or injections of more than 50 mL per 6 hour period except for those legitimately received in the course of hospital admissions or clinical investigations.

M3. GENE DOPING

The following, with the potential to enhance sport performance, are prohibited:

1. The transfer of polymers of nucleic acids or nucleic acid analogues;

2. The use of normal or genetically modified cells.

SUBSTANCES AND METHODS PROHIBITED IN-COMPETITION

In addition to the categories S0 to S5 and M1 to M3 defined above, the following categories are prohibited *In-Competition*:

PROHIBITED SUBSTANCES

S6. STIMULANTS

All stimulants, including all optical isomers (e.g. *d*- and *l*-) where relevant, are prohibited, except imidazole derivatives for topical use and those stimulants included in the 2014 Monitoring Program*.

Stimulants include:

a: Non-Specified Stimulants:

Adrafinil; amfepramone; amfetamine; amfetaminil; amiphenazole; benfluorex; benzylpiperazine; bromantan; clobenzorex; cocaine; cropropamide; crotetamide; fencamine; fenetylline; fenfluramine; fenproporex; fonturacetam [4-phenylpiracetam (carphedon)]; furfenorex; mefenorex; mephentermine; mesocarb; metamfetamine(*d*-); p-methylamphetamine; modafinil; norfenfluramine; phendimetrazine; phenmetrazine; phentermine; prenylamine; prolintane.
A stimulant not expressly listed in this section is a Specified Substance.

b: Specified Stimulants (examples):

Benzfetamine; cathine; cathinone and its analogues** (e.g. **mephedrone, methedrone, α- pyrrolidinovalerophenone); dimethylamphetamine; ephedrine***; **epinephrine**** **(adrenaline); etamivan; etilamfetamine; etilefrine; famprofazone; fenbutrazate; fencamfamin; heptaminol; hydroxyamfetamine (parahydroxyamphetamine); isometheptene; levmetamfetamine; meclofenoxate; methylenedioxymethamphetamine; methylephedrine***; methylhexaneamine (dimethylpentylamine); methylphenidate; nikethamide; norfenefrine; octopamine; oxilofrine (methylsynephrine); pemoline; pentetrazol; phenpromethamine; propylhexedrine; pseudoephedrine*****; selegiline; sibutramine; strychnine; tenamfetamine (methylenedioxyamphetamine); trimetazidine; tuaminoheptane;** and other substances with a similar chemical structure or similar biological effect(s).

* The following substances included in the 2014 Monitoring Program (bupropion, caffeine, nicotine, phenylephrine, phenylpropanolamine, pipradrol, synephrine) are not considered as *Prohibited Substances*.

** **Cathine** is prohibited when its concentration in urine is greater than 5 micrograms per milliliter.

*** Each of **ephedrine** and **methylephedrine** is prohibited when its concentration in urine is greater than 10 micrograms per milliliter.

**** Local administration (e.g. nasal, ophthalmologic) of **epinephrine** (**adrenaline**) or co-administration with local anaesthetic agents is not prohibited.

***** **Pseudoephedrine** is prohibited when its concentration in urine is greater than 150 micrograms per milliliter.

S7. NARCOTICS

The following are prohibited:

Buprenorphine, dextromoramide, diamorphine (heroin), fentanyl and its derivatives, hydromorphone, methadone, morphine, oxycodone, oxymorphone, pentazocine, pethidine.

S8. CANNABINOIDS

Natural (e.g. **cannabis, hashish, marijuana**) or **synthetic delta 9-tetrahydrocannabinol** (THC) and cannabimimetics (e.g. **"Spice", JWH018, JWH073, HU-210**) are prohibited.

S9. GLUCOCORTICOSTEROIDS

All glucocorticosteroids are prohibited when administered by oral, intravenous, intramuscular or rectal routes.

SUBSTANCES PROHIBITED IN PARTICULAR SPORTS

P1. ALCOHOL

Alcohol (**ethanol**) is prohibited *In-Competition* only, in the following sports. Detection will be conducted by analysis of breath and/or blood. The doping violation threshold is equivalent to a blood alcohol concentration of 0.10 g/L.

- Air Sports (FAI)
- Archery (WA)
- Automobile (FIA)
- Karate (WKF)
- Motorcycling (FIM)
- Powerboating (UIM)

P2. BETA-BLOCKERS

Unless otherwise specified, beta-blockers are prohibited *In-Competition* only, in the following sports.

- Archery (WA) (also prohibited *Out-of-Competition*)
- Automobile (FIA)
- Billiards (all disciplines) (WCBS)
- Darts (WDF)
- Golf (IGF)
- Shooting (ISSF, IPC) (also prohibited *Out-of-Competition*)
- Skiing/Snowboarding (FIS) in ski jumping, freestyle aerials/halfpipe and snowboard halfpipe/big air

Beta-blockers include, but are not limited to, the following:

Acebutolol, alprenolol, atenolol, betaxolol, bisoprolol, bunolol, carteolol, carvedilol, celiprolol, esmolol, labetalol, levobunolol, metipranolol, metoprolol, nadolol, oxprenolol, pindolol, propranolol, sotalol, timolol.

WORLD ANTI-DOPING AGENCY

The World Anti-Doping Code

THE 2014 PROHIBITED LIST

INTERNATIONAL STANDARD

Version 2.0 (revised 2014 version)

The official text of the *Prohibited List* shall be maintained by *WADA* and shall be published in English and French. In the event of any conflict between the English and French versions, the English version shall prevail.

This List shall come into effect on 1 September 2014

The revised 2014 Prohibited List
17 May 2014

THE 2014 PROHIBITED LIST
WORLD ANTI-DOPING CODE

Valid 1 September 2014

In accordance with Article 4.2.2 of the World Anti-Doping Code, all *Prohibited Substances* shall be considered as "Specified Substances" except Substances in classes S1, S2, S4.4, S4.5, S6.a, and *Prohibited Methods* M1, M2 and M3.

SUBSTANCES AND METHODS PROHIBITED AT ALL TIMES (IN- AND OUT-OF-COMPETITION)

PROHIBITED SUBSTANCES

S0. NON-APPROVED SUBSTANCES

Any pharmacological substance which is not addressed by any of the subsequent sections of the List and with no current approval by any governmental regulatory health authority for human therapeutic use (e.g drugs under pre-clinical or clinical development or discontinued, designer drugs, substances approved only for veterinary use) is prohibited at all times.

S1. ANABOLIC AGENTS

Anabolic agents are prohibited.

1. Anabolic Androgenic Steroids (AAS)

a. Exogenous* AAS, including:

1-androstenediol (5α-androst-1-ene-3β,17β-diol)**; 1-androstenedione** (5α-androst-1-ene-3,17-dione)**; bolandiol** (estr-4-ene-3β,17β-diol)**; bolasterone; boldenone; boldione** (androsta-1,4-diene-3,17-dione)**; calusterone; clostebol; danazol** ([1,2]oxazolo[4',5':2,3]pregna-4-en-20-yn-17α-ol)**;**

dehydrochlormethyltestosterone (4-chloro-17β-hydroxy-17α-methylandrosta-1,4-dien-3-one); **desoxymethyltestosterone** (17α-methyl-5α-androst-2-en-17β-ol); **drostanolone; ethylestrenol** (19-norpregna-4-en-17α-ol); **fluoxymesterone; formebolone; furazabol** (17α-methyl[1,2,5]oxadiazolo[3',4':2,3]-5α-androstan-17β-ol); **gestrinone; 4-hydroxytestosterone** (4,17β-dihydroxyandrost-4-en-3-one); **mestanolone; mesterolone; metandienone** (17β-hydroxy-17α-methylandrosta-1,4-dien-3-one); **metenolone; methandriol; methasterone** (17β-hydroxy-2α,17α-dimethyl-5α-androstan-3-one); **methyldienolone** (17β-hydroxy-17α-methylestra-4,9-dien-3-one); **methyl-1-testosterone** (17β-hydroxy-17α-methyl-5α-androst-1-en-3-one); **methylnortestosterone** (17β-hydroxy-17α-methylestr-4-en-3-one); **methyltestosterone; metribolone** (methyltrienolone, 17β-hydroxy-17α-methylestra-4,9,11-trien-3-one); **mibolerone; nandrolone; 19-norandrostenedione** (estr-4-ene-3,17-dione); **norboletone; norclostebol; norethandrolone; oxabolone; oxandrolone; oxymesterone; oxymetholone; prostanozol** (17β-[(tetrahydropyran-2-yl)oxy]-1'H-pyrazolo[3,4:2,3]-5α-androstane); **quinbolone; stanozolol; stenbolone; 1-testosterone** (17β-hydroxy-5α-androst-1-en-3-one); **tetrahydrogestrinone** (17-hydroxy-18a-homo-19-nor-17α-pregna-4,9,11-trien-3-one); **trenbolone** (17β-hydroxyestr-4,9,11-trien-3-one); and other substances with a similar chemical structure or similar biological effect(s).

b. Endogenous** AAS when administered exogenously:

androstenediol (androst-5-ene-3β,17β-diol); **androstenedione** (androst-4-ene-3,17-dione); **dihydrotestosterone** (17β-hydroxy-5α-androstan-3-one); **prasterone** (dehydroepiandrosterone, DHEA, 3β-hydroxyandrost-5-en-17-one); **testosterone;**
and their metabolites and isomers, including but not limited to:

5α-androstane-3α,17α-diol; 5α-androstane-3α,17β-diol; 5α-androstane-3β,17α-diol; 5α-androstane-3β,17β-diol; androst-4-ene-3α,17α-diol; androst-4-ene-3α,17β-diol; androst-4-ene-3β,17α-diol; androst-5-ene-3α,17α-diol; androst-5-ene-3α,17β-diol; androst-5-ene-3β,17α-diol; 4-androstenediol (androst-4-ene-3β,17β-diol); **5-androstenedione** (androst-5-ene-3,17-dione); **epi-dihydrotestosterone; epitestosterone; etiocholanolone; 3α-hydroxy-5α-androstan-17-one; 3β-hydroxy-5α-androstan-17-one; 7α-hydroxy-DHEA ; 7β-hydroxy-DHEA ; 7-keto-DHEA; 19-norandrosterone; 19-noretiocholanolone.**

2. Other Anabolic Agents, including but not limited to:

Clenbuterol, selective androgen receptor modulators (SARMs), tibolone, zeranol, zilpaterol.

For purposes of this section:

** "exogenous" refers to a substance which is not ordinarily produced by the body naturally.*

*** "endogenous" refers to a substance which is ordinarily produced by the body naturally.*

S2. PEPTIDE HORMONES, GROWTH FACTORS AND RELATED SUBSTANCES

The following substances, and other substances with similar chemical structure or similar biological effect(s), are prohibited:

1. **Erythropoiesis-Stimulating Agents [**e.g. **erythropoietin (EPO), darbepoetin (dEPO), hypoxia-inducible factor (HIF) stabilizers and activators** (e.g. **xenon, argon), methoxy polyethylene glycol-epoetin beta (CERA), peginesatide (Hematide)];**

2. **Chorionic Gonadotrophin (CG) and Luteinizing Hormone (LH)** and their releasing factors, in males;

3. **Corticotrophins** and their releasing factors;

4. **Growth Hormone (GH)** and its releasing factors and **Insulin-like Growth Factor-1 (IGF-1).**

In addition, the following growth factors are prohibited

Fibroblast Growth Factors (FGFs), Hepatocyte Growth Factor (HGF), Mechano Growth Factors (MGFs), Platelet-Derived Growth Factor (PDGF), Vascular-Endothelial Growth Factor (VEGF) as well as any other growth factor affecting muscle, tendon or ligament protein synthesis/degradation, vascularisation, energy utilization, regenerative capacity or fibre type switching;

and other substances with similar chemical structure or similar biological effect(s).

S3. BETA-2 AGONISTS

All beta-2 agonists, including all optical isomers (e.g. *d*- and *l*-) where relevant, are prohibited except inhaled salbutamol (maximum 1600 micrograms over 24 hours), inhaled formoterol (maximum delivered dose 54 micrograms over 24 hours) and salmeterol when taken by inhalation in accordance with the manufacturers' recommended therapeutic regimen.

The presence in urine of salbutamol in excess of 1000 ng/mL or formoterol in excess of 40 ng/mL is presumed not to be an intended therapeutic use of the substance and will be considered as an *Adverse Analytical Finding* unless the *Athlete* proves, through a controlled pharmacokinetic study, that the abnormal result was the consequence of the use of the therapeutic inhaled dose up to the maximum indicated above.

S4. HORMONE AND METABOLIC MODULATORS

The following are prohibited:

1. **Aromatase inhibitors** including, but not limited to: **aminoglutethimide, anastrozole, androsta-1,4,6-triene-3,17-dione (androstatrienedione), 4-androstene-3,6,17 trione (6-oxo), exemestane, formestane, letrozole, testolactone.**

2. **Selective estrogen receptor modulators (SERMs)** including, but not limited to: **raloxifene, tamoxifen, toremifene.**

3. **Other anti-estrogenic substances** including, but not limited to: **clomiphene, cyclofenil, fulvestrant.**

4. **Agents modifying myostatin function(s)** including, but not limited, to: **myostatin inhibitors.**

5. **Metabolic modulators:**
   a) Insulins
   b) Peroxisome Proliferator Activated Receptor δ (PPARδ) agonists (e.g. GW 1516), PPARδ-AMP-activated protein kinase (AMPK) axis agonists (e.g. AICAR)

S5. DIURETICS AND OTHER MASKING AGENTS

Masking agents are prohibited. They include:
Diuretics, desmopressin, plasma expanders (e.g. **glycerol**; intravenous administration of **albumin, dextran, hydroxyethyl starch** and **mannitol), probenecid;** and other substances with similar biological effect(s).
Local administration of felypressin in dental anaesthesia is not prohibited.

Diuretics include:
Acetazolamide, amiloride, bumetanide, canrenone, chlortalidone, etacrynic acid, furosemide, indapamide, metolazone, spironolactone, thiazides (e.g. **bendroflumethiazide, chlorothiazide, hydrochlorothiazide), triamterene, vaptans (**e.g. **tolvaptan);** and other substances with a similar

chemical structure or similar biological effect(s) (except drospirenone, pamabrom and topical dorzolamide and brinzolamide, which are not prohibited).

The use *In-* and *Out-of-Competition,* as applicable, of any quantity of a substance subject to threshold limits (i.e. formoterol, salbutamol, cathine, ephedrine, methylephedrine and pseudoephedrine) in conjunction with a diuretic or other masking agent requires the deliverance of a specific Therapeutic Use Exemption for that substance in addition to the one granted for the diuretic or other masking agent.

PROHIBITED METHODS

M1. MANIPULATION OF BLOOD AND BLOOD COMPONENTS

The following are prohibited:

1. The administration or reintroduction of any quantity of autologous, allogenic (homologous) or heterologous blood or red blood cell products of any origin into the circulatory system.

2. Artificially enhancing the uptake, transport or delivery of oxygen, including, but not limited to, perfluorochemicals, efaproxiral (RSR13) and modified haemoglobin products (e.g. haemoglobin-based blood substitutes, microencapsulated haemoglobin products), excluding supplemental oxygen.

3. Any form of intravascular manipulation of the blood or blood components by physical or chemical means.

M2. CHEMICAL AND PHYSICAL MANIPULATION

The following are prohibited:

1. *Tampering,* or attempting to tamper, in order to alter the integrity and validity of *Samples* collected during *Doping Control*. These include but are not limited to urine substitution and/or adulteration (e.g. proteases).

2. Intravenous infusions and/or injections of more than 50 mL per 6 hour period except for those legitimately received in the course of hospital admissions or clinical investigations.

M3. GENE DOPING

The following, with the potential to enhance sport performance, are prohibited:

1. The transfer of polymers of nucleic acids or nucleic acid analogues;

2. The use of normal or genetically modified cells.

SUBSTANCES AND METHODS PROHIBITED IN-COMPETITION

In addition to the categories S0 to S5 and M1 to M3 defined above, the following categories are prohibited *In-Competition*:

PROHIBITED SUBSTANCES

S6. STIMULANTS

All stimulants, including all optical isomers (e.g. *d*- and *l*-) where relevant, are prohibited, except imidazole derivatives for topical use and those stimulants included in the 2014 Monitoring Program*.

Stimulants include:

a: Non-Specified Stimulants:

Adrafinil; amfepramone; amfetamine; amfetaminil; amiphenazole; benfluorex; benzylpiperazine; bromantan; clobenzorex; cocaine; cropropamide; crotetamide; fencamine; fenetylline; fenfluramine; fenproporex; fonturacetam [4-phenylpiracetam (carphedon)]; furfenorex; mefenorex; mephentermine; mesocarb; metamfetamine(*d*-); p-methylamphetamine; modafinil; norfenfluramine; phendimetrazine; phenmetrazine; phentermine; prenylamine; prolintane.
A stimulant not expressly listed in this section is a Specified Substance.

b: Specified Stimulants (examples):

Benzfetamine; cathine; cathinone and its analogues** (e.g. **mephedrone, methedrone, α- pyrrolidinovalerophenone); dimethylamphetamine; ephedrine***; epinephrine**** (adrenaline); etamivan; etilamfetamine; etilefrine; famprofazone; fenbutrazate; fencamfamin; heptaminol; hydroxyamfetamine (parahydroxyamphetamine); isometheptene; levmetamfetamine; meclofenoxate; methylenedioxymethamphetamine; methylephedrine***; methylhexaneamine (dimethylpentylamine); methylphenidate; nikethamide; norfenefrine; octopamine; oxilofrine (methylsynephrine); pemoline; pentetrazol; phenpromethamine; propylhexedrine; pseudoephedrine*****; selegiline; sibutramine; strychnine; tenamfetamine (methylenedioxyamphetamine); trimetazidine; tuaminoheptane;** and other substances with a similar chemical structure or similar biological effect(s).

* The following substances included in the 2014 Monitoring Program (bupropion, caffeine, nicotine, phenylephrine, phenylpropanolamine, pipradrol, synephrine) are not considered as *Prohibited Substances*.
** **Cathine** is prohibited when its concentration in urine is greater than 5 micrograms per milliliter.
*** Each of **ephedrine** and **methylephedrine** is prohibited when its concentration in urine is greater than 10 micrograms per milliliter.
**** Local administration (e.g. nasal, ophthalmologic) of **epinephrine** (**adrenaline**) or co-administration with local anaesthetic agents is not prohibited.
***** **Pseudoephedrine** is prohibited when its concentration in urine is greater than 150 micrograms per milliliter.

S7. NARCOTICS

The following are prohibited:

Buprenorphine, dextromoramide, diamorphine (heroin), fentanyl and its derivatives, hydromorphone, methadone, morphine, oxycodone, oxymorphone, pentazocine, pethidine.

S8. CANNABINOIDS

Natural (e.g. **cannabis, hashish, marijuana**) or **synthetic delta 9-tetrahydrocannabinol** (THC) and cannabimimetics (e.g. **"Spice", JWH018, JWH073, HU-210**) are prohibited.

S9. GLUCOCORTICOSTEROIDS

All glucocorticosteroids are prohibited when administered by oral, intravenous, intramuscular or rectal routes.

SUBSTANCES PROHIBITED IN PARTICULAR SPORTS

P1. ALCOHOL

Alcohol (**ethanol**) is prohibited *In-Competition* only, in the following sports. Detection will be conducted by analysis of breath and/or blood. The doping violation threshold is equivalent to a blood alcohol concentration of 0.10 g/L.

- Air Sports (FAI)
- Archery (WA)
- Automobile (FIA)
- Karate (WKF)
- Motorcycling (FIM)
- Powerboating (UIM)

P2. BETA-BLOCKERS

Unless otherwise specified, beta-blockers are prohibited *In-Competition* only, in the following sports.

- Archery (WA) (also prohibited *Out-of-Competition*)
- Automobile (FIA)
- Billiards (all disciplines) (WCBS)
- Darts (WDF)
- Golf (IGF)
- Shooting (ISSF, IPC) (also prohibited *Out-of-Competition*)
- Skiing/Snowboarding (FIS) in ski jumping, freestyle aerials/halfpipe and snowboard halfpipe/big air

Beta-blockers include, but are not limited to, the following:

Acebutolol, alprenolol, atenolol, betaxolol, bisoprolol, bunolol, carteolol, carvedilol, celiprolol, esmolol, labetalol, levobunolol, metipranolol, metoprolol, nadolol, oxprenolol, pindolol, propranolol, sotalol, timolol.

WORLD ANTI-DOPING AGENCY

The World Anti-Doping Code

THE 2015 PROHIBITED LIST

INTERNATIONAL STANDARD

The official text of the *Prohibited List* shall be maintained by *WADA* and shall be published in English and French. In the event of any conflict between the English and French versions, the English version shall prevail.

This List shall come into effect on 1 January 2015

The 2015 Prohibited List
20 September 2014

THE 2015 PROHIBITED LIST
WORLD ANTI-DOPING CODE

Valid 1 January 2015

In accordance with Article 4.2.2 of the World Anti-Doping Code, all *Prohibited Substances* shall be considered as *"Specified Substances"* except Substances in classes S1, S2, S4.4, S4.5, S6.a, and *Prohibited Methods* M1, M2 and M3.

SUBSTANCES AND METHODS PROHIBITED AT ALL TIMES (IN- AND OUT-OF-COMPETITION)

PROHIBITED SUBSTANCES

S0. NON-APPROVED SUBSTANCES

Any pharmacological substance which is not addressed by any of the subsequent sections of the *List* and with no current approval by any governmental regulatory health authority for human therapeutic use (e.g drugs under pre-clinical or clinical development or discontinued, designer drugs, substances approved only for veterinary use) is prohibited at all times.

S1. ANABOLIC AGENTS

Anabolic agents are prohibited.

1. Anabolic Androgenic Steroids (AAS)

a. **Exogenous*** **AAS**, including:

1-androstenediol (5α-androst-1-ene-3β,17β-diol); **1-androstenedione** (5α-androst-1-ene-3,17-dione); **bolandiol** (estr-4-ene-3β,17β-diol); **bolasterone**; **boldenone**; **boldione** (androsta-1,4-diene-3,17-dione); **calusterone**;

clostebol; **danazol** ([1,2]oxazolo[4',5':2,3]pregna-4-en-20-yn-17α-ol); **dehydrochlormethyltestosterone** (4-chloro-17β-hydroxy-17α-methylandrosta-1,4-dien-3-one); **desoxymethyltestosterone** (17α-methyl-5α-androst-2-en-17β-ol); **drostanolone**; **ethylestrenol** (19-norpregna-4-en-17α-ol); **fluoxymesterone**; **formebolone**; **furazabol** (17α-methyl [1,2,5]oxadiazolo[3',4':2,3]-5α-androstan-17β-ol); **gestrinone**; **4-hydroxytestosterone** (4,17β-dihydroxyandrost-4-en-3-one); **mestanolone**; **mesterolone**; **metandienone** (17β-hydroxy-17α-methylandrosta-1,4-dien-3-one); **metenolone**; **methandriol**; **methasterone** (17β-hydroxy-2α,17α-dimethyl-5α-androstan-3-one); **methyldienolone** (17β-hydroxy-17α-methylestra-4,9-dien-3-one); **methyl-1-testosterone** (17β-hydroxy-17α-methyl-5α-androst-1-en-3-one); **methylnortestosterone** (17β-hydroxy-17α-methylestr-4-en-3-one); **methyltestosterone**; **metribolone** (methyltrienolone, 17β-hydroxy-17α-methylestra-4,9,11-trien-3-one); **mibolerone**; **nandrolone**; **19-norandrostenedione** (estr-4-ene-3,17-dione); **norboletone**; **norclostebol**; **norethandrolone**; **oxabolone**; **oxandrolone**; **oxymesterone**; **oxymetholone**; **prostanozol** (17β-[(tetrahydropyran-2-yl)oxy]-1'H-pyrazolo[3,4:2,3]-5α-androstane); **quinbolone**; **stanozolol**; **stenbolone**; **1-testosterone** (17β-hydroxy-5α-androst-1-en-3-one); **tetrahydrogestrinone** (17-hydroxy-18a-homo-19-nor-17α-pregna-4,9,11-trien-3-one); **trenbolone** (17β-hydroxyestr-4,9,11-trien-3-one);
and other substances with a similar chemical structure or similar biological effect(s).

b. **Endogenous**** **AAS** when administered exogenously:

Androstenediol (androst-5-ene-3β,17β-diol); **androstenedione** (androst-4-ene-3,17-dione); **dihydrotestosterone** (17β-hydroxy-5α-androstan-3-one); **prasterone** (dehydroepiandrosterone, DHEA, 3β-hydroxyandrost-5-en-17-one); **testosterone**;
and their **metabolites** and **isomers**, including but not limited to:
5α-androstane-3α,17α-diol; **5α-androstane-3α,17β-diol**; **5α-androstane-3β,17α-diol**; **5α-androstane-3β,17β-diol**; **5β-androstane-3α,17β-diol**; **androst-4-ene-3α,17α-diol**; **androst-4-ene-3α,17β-diol**; **androst-4-ene-3β,17α-diol**; **androst-5-ene-3α,17α-diol**; **androst-5-ene-3α,17β-diol**; **androst-5-ene-3β,17α-diol**; **4-androstenediol** (androst-4-ene-3β,17β-diol); **5-androstenedione** (androst-5-ene-3,17-dione); **androsterone** (3β-hydroxy-5α-androstan-17-one); **epi-dihydrotestosterone**; **epitestosterone**; **etiocholanolone**; **7α-hydroxy-DHEA**; **7β-hydroxy-DHEA**; **7-keto-DHEA**; **19-norandrosterone**; **19-noretiocholanolone**.

2. Other Anabolic Agents

Including, but not limited to:

Clenbuterol, **selective androgen receptor modulators** (SARMs, e.g. **andarine** and **ostarine**), **tibolone**, **zeranol** and **zilpaterol**.

For purposes of this section:

** "exogenous" refers to a substance which is not ordinarily produced by the body naturally.*

*** "endogenous" refers to a substance which is ordinarily produced by the body naturally.*

S2. PEPTIDE HORMONES, GROWTH FACTORS, RELATED SUBSTANCES AND MIMETICS

The following substances, and other substances with similar chemical structure or similar biological effect(s), are prohibited:

1. **Erythropoietin-Receptor agonists:**

   1.1 **Erythropoiesis-Stimulating Agents** (ESAs) including e.g. **darbepoietin** (dEPO); **erythropoietins** (EPO); **EPO-Fc**; **EPO-mimetic peptides** (EMP), e.g. **CNTO 530** and **peginesatide**; and **methoxy polyethylene glycol-epoetin beta** (CERA);

   1.2 **Non-erythropoietic EPO-Receptor agonists**, e.g. **ARA-290**, **asialo EPO** and **carbamylated EPO**;

2. **Hypoxia-inducible factor** (HIF) **stabilizers**, e.g. **cobalt** and **FG-4592**; and **HIF activators**, e.g. **argon**, **xenon**;

3. **Chorionic Gonadotrophin** (CG) and **Luteinizing Hormone** (LH) and their releasing factors, e.g. **buserelin, gonadorelin** and **triptorelin**, in males;

4. **Corticotrophins** and their releasing factors, e.g **corticorelin**;

5. **Growth Hormone** (GH) and its releasing factors including **Growth Hormone Releasing Hormone** (GHRH) and its **analogues**, e.g. **CJC-1295**, **sermorelin** and **tesamorelin**; **Growth Hormone Secretagogues** (GHS), e.g. **ghrelin** and **ghrelin mimetics**, e.g. **anamorelin** and **ipamorelin**; and **GH-Releasing Peptides** (GHRPs), e.g. **alexamorelin**, **GHRP-6**, **hexarelin** and **pralmorelin** (GHRP-2).

Additional prohibited growth factors:

Fibroblast Growth Factors (FGFs); **Hepatocyte Growth Factor** (HGF); **Insulin-like Growth Factor-1** (IGF-1) and its **analogues**; **Mechano Growth Factors** (MGFs); **Platelet-Derived Growth Factor** (PDGF); **Vascular-Endothelial Growth Factor** (VEGF) and any other growth factor

affecting muscle, tendon or ligament protein synthesis/degradation, vascularisation, energy utilization, regenerative capacity or fibre type switching.

S3. BETA-2 AGONISTS

All **beta-2 agonists**, including all **optical isomers**, e.g. ***d-*** and ***l-*** where relevant, are prohibited.

Except:

- Inhaled **salbutamol** (maximum 1600 micrograms over 24 hours);
- Inhaled **formoterol** (maximum delivered dose 54 micrograms over 24 hours); and
- Inhaled **salmeterol** in accordance with the manufacturers' recommended therapeutic regimen.

The presence in urine of salbutamol in excess of 1000 ng/mL or formoterol in excess of 40 ng/mL is presumed not to be an intended therapeutic use of the substance and will be considered as an *Adverse Analytical Finding (AAF)* unless the *Athlete* proves, through a controlled pharmacokinetic study, that the abnormal result was the consequence of the use of the therapeutic inhaled dose up to the maximum indicated above.

S4. HORMONE AND METABOLIC MODULATORS

The following **hormones** and **metabolic modulators** are prohibited:

1. **Aromatase inhibitors** including, but not limited to: **aminoglutethimide**; **anastrozole**; **androsta-1,4,6-triene-3,17-dione** (androstatrienedione); **4-androstene-3,6,17 trione** (6-oxo); **exemestane**; **formestane**; **letrozole** and **testolactone.**

2. **Selective estrogen receptor modulators** (SERMs) including, but not limited to: **raloxifene**; **tamoxifen** and **toremifene.**

3. Other **anti-estrogenic substances** including, but not limited to: **clomiphene**; **cyclofenil** and **fulvestrant.**

4. **Agents modifying myostatin function(s)** including, but not limited, to: **myostatin inhibitors.**

5. Metabolic modulators:

5.1 **Activators of the AMP-activated protein kinase** (AMPK), e.g. **AICAR**; and **Peroxisome Proliferator Activated Receptor δ** (PPARδ) **agonists**, e.g. **GW 1516**;

5.2 **Insulins**;

5.3 **Trimetazidine**.

S5. DIURETICS AND MASKING AGENTS

The following **diuretics** and **masking agents** are prohibited, as are other substances with a similar chemical structure or similar biological effect(s).

Including, but not limited to:

- **Desmopressin**; **probenecid**; **plasma expanders**, e.g. **glycerol** and intravenous administration of **albumin**, **dextran**, **hydroxyethyl starch** and **mannitol**.
- **Acetazolamide**; **amiloride**; **bumetanide**; **canrenone**; **chlortalidone**; **etacrynic acid**; **furosemide**; **indapamide**; **metolazone**; **spironolactone**; **thiazides**, e.g. **bendroflumethiazide**, **chlorothiazide** and **hydrochlorothiazide**; **triamterene** and **vaptans**, e.g. **tolvaptan**.

Except:

- Drospirenone; pamabrom; and topical dorzolamide and brinzolamide.
- Local administration of felypressin in dental anaesthesia.

The detection in an *Athlete's Sample* at all times or *In-Competition*, as applicable, of any quantity of the following substances subject to threshold limits: formoterol, salbutamol, cathine, ephedrine, methylephedrine and pseudoephedrine, in conjunction with a diuretic or masking agent, will be considered as an *Adverse Analytical Finding* unless the *Athlete* has an approved *TUE* for that substance in addition to the one granted for the diuretic or masking agent.

PROHIBITED METHODS

M1. MANIPULATION OF BLOOD AND BLOOD COMPONENTS

The following are prohibited:

1. The *Administration* or reintroduction of any quantity of autologous, allogenic (homologous) or heterologous blood, or red blood cell products of any origin into the circulatory system.

2. Artificially enhancing the uptake, transport or delivery of oxygen.
Including, but not limited to:
Perfluorochemicals; **efaproxiral** (RSR13) and **modified haemoglobin products**, e.g. haemoglobin-based blood substitutes and microencapsulated haemoglobin products, excluding supplemental oxygen.

3. Any form of intravascular manipulation of the blood or blood components by physical or chemical means.

M2. CHEMICAL AND PHYSICAL MANIPULATION

The following are prohibited:

1. *Tampering,* or *Attempting to Tamper*, to alter the integrity and validity of *Samples* collected during *Doping Control.*
Including, but not limited to:
Urine substitution and/or adulteration, e.g. proteases.

2. Intravenous infusions and/or injections of more than 50 mL per 6 hour period except for those legitimately received in the course of hospital admissions, surgical procedures or clinical investigations.

M3. GENE DOPING

The following, with the potential to enhance sport performance, are prohibited:

1. The transfer of polymers of nucleic acids or nucleic acid analogues;

2. The use of normal or genetically modified cells.

SUBSTANCES AND METHODS PROHIBITED IN-COMPETITION

In addition to the categories S0 to S5 and M1 to M3 defined above, the following categories are prohibited *In-Competition*:

PROHIBITED SUBSTANCES

S6. STIMULANTS

All **stimulants**, including all **optical isomers**, e.g. ***d***- and ***l***- where relevant, are prohibited.

Stimulants include:

a: Non-Specified Stimulants:

Adrafinil; **amfepramone**; **amfetamine**; **amfetaminil**; **amiphenazole**; **benfluorex**; **benzylpiperazine**; **bromantan**; **clobenzorex**; **cocaine**; **cropropamide**; **crotetamide**; **fencamine**; **fenetylline**; **fenfluramine**; **fenproporex**; **fonturacetam** [4-phenylpiracetam (carphedon)]; **furfenorex**; **mefenorex**; **mephentermine**; **mesocarb**; **metamfetamine(*d*-)**; **p-methylamphetamine**; **modafinil**; **norfenfluramine**; **phendimetrazine**; **phentermine**; **prenylamine** and **prolintane**.

A stimulant not expressly listed in this section is a Specified Substance.

b: Specified Stimulants.

Including, but not limited to:

Benzfetamine; **cathine**[**]; **cathinone** and its **analogues**, e.g. **mephedrone**, **methedrone**, and α- **pyrrolidinovalerophenone**; **dimethylamphetamine**; **ephedrine**[***]; **epinephrine**[****] (adrenaline); **etamivan**; **etilamfetamine**; **etilefrine**; **famprofazone**; **fenbutrazate**; **fencamfamin**; **heptaminol**; **hydroxyamfetamine (parahydroxyamphetamine)**; **isometheptene**; **levmetamfetamine**; **meclofenoxate**; **methylenedioxymethamphetamine**; **methylephedrine**[***]; **methylhexaneamine** (dimethylpentylamine); **methylphenidate**; **nikethamide**; **norfenefrine**; **octopamine**; **oxilofrine** (methylsynephrine); **pemoline**; **pentetrazol**; **phenethylamine** and its **derivatives**; **phenmetrazine**; **phenpromethamine**; **propylhexedrine**; **pseudoephedrine**[*****]; **selegiline**; **sibutramine**; **strychnine**; **tenamfetamine** (methylenedioxyamphetamine), **tuaminoheptane**;

and other substances with a similar chemical structure or similar biological effect(s).

Except:

Imidazole derivatives for topical/ophthalmic use and those stimulants included in the 2015 Monitoring Program*.

* Bupropion, caffeine, nicotine, phenylephrine, phenylpropanolamine, pipradrol, and synephrine: These substances are included in the 2015 Monitoring Program, and are not considered *Prohibited Substances*.

** Cathine: Prohibited when its concentration in urine is greater than 5 micrograms per milliliter.

*** Ephedrine and methylephedrine: Prohibited when the concentration of either in urine is greater than 10 micrograms per milliliter.

**** Epinephrine (adrenaline): Not prohibited in local administration, e.g. nasal, ophthalmologic, or co-administration with local anaesthetic agents.

***** Pseudoephedrine: Prohibited when its concentration in urine is greater than 150 micrograms per milliliter.

S7. NARCOTICS

Prohibited:

Buprenorphine; **dextromoramide**; **diamorphine** (heroin); **fentanyl** and its **derivatives**; **hydromorphone**; **methadone**; **morphine**; **oxycodone**; **oxymorphone**; **pentazocine** and **pethidine.**

S8. CANNABINOIDS

Prohibited:

- **Natural**, e.g. **cannabis**, **hashish** and **marijuana**, or **synthetic Δ9-tetrahydrocannabinol** (THC).
- **Cannabimimetics**, e.g. **"Spice", JWH-018, JWH-073, HU-210.**

S9. GLUCOCORTICOIDS

All **glucocorticoids** are prohibited when administered by oral, intravenous, intramuscular or rectal routes.

SUBSTANCES PROHIBITED IN PARTICULAR SPORTS

P1. ALCOHOL

Alcohol (**ethanol**) is prohibited *In-Competition* only, in the following sports. Detection will be conducted by analysis of breath and/or blood. The doping violation threshold is equivalent to a blood alcohol concentration of 0.10 g/L.

- Air Sports (FAI)
- Archery (WA)
- Automobile (FIA)
- Motorcycling (FIM)
- Powerboating (UIM)

P2. BETA-BLOCKERS

Beta-blockers are prohibited *In-Competition* only, in the following sports, and also prohibited *Out-of-Competition* where indicated.

- Archery (WA)*
- Automobile (FIA)
- Billiards (all disciplines) (WCBS)
- Darts (WDF)
- Golf (IGF)
- Shooting (ISSF, IPC)*
- Skiing/Snowboarding (FIS) in ski jumping, freestyle aerials/halfpipe and snowboard halfpipe/big air
- Underwater sports (CMAS) in constant-weight apnoea with or without fins, dynamic apnoea with and without fins, free immersion apnoea, Jump Blue apnoea, spearfishing, static apnoea, target shooting and variable weight apnoea.

*Also prohibited *Out-of-Competition*

Including, but not limited to:

Acebutolol; **alprenolol**; **atenolol**; **betaxolol**; **bisoprolol**; **bunolol**; **carteolol**; **carvedilol**; **celiprolol**; **esmolol**; **labetalol**; **levobunolol**; **metipranolol**; **metoprolol**; **nadolol**; **oxprenolol**; **pindolol**; **propranolol**; **sotalol** and **timolol.**

WORLD ANTI-DOPING CODE

INTERNATIONAL STANDARD

PROHIBITED LIST

JANUARY 2016

WORLD ANTI-DOPING AGENCY
play true

This List shall come into effect on 1 January 2016.

The official text of the *Prohibited List* shall be maintained by *WADA* and shall be published in English and French.

In the event of any conflict between the English and French versions, the English version shall prevail.

IN ACCORDANCE WITH ARTICLE 4.2.2 OF THE WORLD ANTI-DOPING CODE, ALL *PROHIBITED SUBSTANCES* SHALL BE CONSIDERED AS *"SPECIFIED SUBSTANCES"* EXCEPT SUBSTANCES IN CLASSES S1, S2, S4.4, S4.5, S6.a, AND *PROHIBITED METHODS* M1, M2 AND M3.

SUBSTANCES & METHODS **PROHIBITED AT ALL TIMES**

(IN- AND OUT-OF-COMPETITION)

PROHIBITED SUBSTANCES

S0 NON-APPROVED SUBSTANCES

Any pharmacological substance which is not addressed by any of the subsequent sections of the *List* and with no current approval by any governmental regulatory health authority for human therapeutic use (e.g. drugs under pre-clinical or clinical development or discontinued, designer drugs, substances approved only for veterinary use) is prohibited at all times.

S1 ANABOLIC AGENTS

Anabolic agents are prohibited.

1. ANABOLIC ANDROGENIC STEROIDS (AAS)

a. Exogenous* AAS, including:

1-Androstenediol (5α-androst-1-ene-3β,17β-diol);
1-Androstenedione (5α-androst-1-ene-3,17-dione);
1-Testosterone (17β-hydroxy-5α-androst-1-en-3-one);
4-Hydroxytestosterone (4,17β-dihydroxyandrost-4-en-3-one);
19-Norandrostenedione (estr-4-ene-3,17-dione);
Bolandiol (estr-4-ene-3β,17β-diol);
Bolasterone;
Boldenone;
Boldione (androsta-1,4-diene-3,17-dione);
Calusterone;
Clostebol;
Danazol ([1,2]oxazolo[4',5':2,3]pregna-4-en-20-yn-17α-ol);
Dehydrochlormethyltestosterone (4-chloro-17β-hydroxy-17α-methylandrosta-1,4-dien-3-one);
Desoxymethyltestosterone (17α-methyl-5α-androst-2-en-17β-ol);
Drostanolone;
Ethylestrenol (19-norpregna-4-en-17α-ol);
Fluoxymesterone;
Formebolone;
Furazabol (17α-methyl [1,2,5]oxadiazolo[3',4':2,3]-5α-androstan-17β-ol);
Gestrinone;
Mestanolone;
Mesterolone;
Metandienone (17β-hydroxy-17α-methylandrosta-1,4-dien-3-one);
Metenolone;
Methandriol;
Methasterone (17β-hydroxy-2α,17α-dimethyl-5α-androstan-3-one);
Methyldienolone (17β-hydroxy-17α-methylestra-4,9-dien-3-one);
Methyl-1-testosterone (17β-hydroxy-17α-methyl-5α-androst-1-en-3-one);
Methylnortestosterone (17β-hydroxy-17α-methylestr-4-en-3-one);
Methyltestosterone;
Metribolone (methyltrienolone, 17β-hydroxy-17α-methylestra-4,9,11-trien-3-one);
Mibolerone;
Nandrolone;
Norboletone;
Norclostebol;
Norethandrolone;
Oxabolone;
Oxandrolone;
Oxymesterone;
Oxymetholone;
Prostanozol (17β-[(tetrahydropyran-2-yl)oxy]-1'H-pyrazolo[3,4:2,3]-5α-androstane);
Quinbolone;
Stanozolol;
Stenbolone;
Tetrahydrogestrinone (17-hydroxy-18a-homo-19-nor-17α-pregna-4,9,11-trien-3-one);
Trenbolone (17β-hydroxyestr-4,9,11-trien-3-one);

and other substances with a similar chemical structure or similar biological effect(s).

b. Endogenous AAS when administered exogenously:**

Androstenediol (androst-5-ene-3β,17β-diol);
Androstenedione (androst-4-ene-3,17-dione);
Dihydrotestosterone (17β-hydroxy-5α-androstan-3-one);
Prasterone (dehydroepiandrosterone, DHEA, 3β-hydroxyandrost-5-en-17-one);
Testosterone;

and their metabolites and isomers, including but not limited to:

3β-Hydroxy-5α-androstan-17-one;
5α-Androstane-3α,17α-diol;
5α-Androstane-3α,17β-diol;
5α-Androstane-3β,17α-diol;
5α-Androstane-3β,17β-diol;
5β-Androstane-3α,17β-diol;
7α-Hydroxy-DHEA;
7β-Hydroxy-DHEA;
4-Androstenediol (androst-4-ene-3β, 17β-diol)
5-Androstenedione (androst-5-ene-3,17-dione);
7-Keto-DHEA;
19-Norandrosterone;
19-Noretiocholanolone.
Androst-4-ene-3α,17α-diol;
Androst-4-ene-3α,17β-diol;
Androst-4-ene-3β,17α-diol;
Androst-5-ene-3α,17α-diol;
Androst-5-ene-3α,17β-diol;
Androst-5-ene-3β,17α-diol;
Androsterone
Epi-dihydrotestosterone;
Epitestosterone;
Etiocholanolone.

2. OTHER ANABOLIC AGENTS

Including, but not limited to:
Clenbuterol, selective androgen receptor modulators (SARMs, e.g. andarine and ostarine), tibolone, zeranol and zilpaterol.

For purposes of this section:
* "exogenous" refers to a substance which is not ordinarily produced by the body naturally.
** "endogenous" refers to a substance which is ordinarily produced by the body naturally.

S2 PEPTIDE HORMONES, GROWTH FACTORS, RELATED SUBSTANCES AND MIMETICS

The following substances, and other substances with similar chemical structure or similar biological effect(s), are prohibited:

1. Erythropoietin-Receptor agonists:
1.1 Erythropoiesis-Stimulating Agents (ESAs) including e.g.
Darbepoietin (dEPO);
Erythropoietins (EPO);
EPO-Fc,
EPO-mimetic peptides (EMP), e.g. CNTO 530 and peginesatide; methoxy polyethylene glycol-epoetin beta (CERA).

1.2 Non-erythropoietic EPO-Receptor agonists, e.g.
ARA-290;
asialo EPO;
carbamylated EPO.

2. Hypoxia-inducible factor (HIF) stabilizers, e.g. cobalt and FG-4592; and HIF activators, e.g. argon, xenon;

3. Chorionic Gonadotrophin (CG) and Luteinizing Hormone (LH) and their releasing factors, e.g. buserelin, gonadorelin and leuprorelin, in males;

4. Corticotrophins and their releasing factors, e.g corticorelin;

5. Growth Hormone (GH) and its releasing factors including:
Growth Hormone Releasing Hormone (GHRH) and its analogues, e.g. CJC-1295, sermorelin and tesamorelin;
Growth Hormone Secretagogues (GHS), e.g. ghrelin and ghrelin mimetics, e.g. anamorelin and ipamorelin;
GH-Releasing Peptides (GHRPs), e.g. alexamorelin, GHRP-6, hexarelin and pralmorelin (GHRP-2).

Additional prohibited growth factors:

Fibroblast Growth Factors (FGFs);
Hepatocyte Growth Factor (HGF);
Insulin-like Growth Factor-1 (IGF-1) and its analogues;
Mechano Growth Factors (MGFs);
Platelet-Derived Growth Factor (PDGF);
Vascular-Endothelial Growth Factor (VEGF)

and any other growth factor affecting muscle, tendon or ligament protein synthesis/degradation, vascularisation, energy utilization, regenerative capacity or fibre type switching.

S3 BETA-2 AGONISTS

All beta-2 agonists, including all optical isomers, e.g. *d*- and *l*- where relevant, are prohibited.

Except:

- Inhaled salbutamol (maximum 1600 micrograms over 24 hours);
- Inhaled formoterol (maximum delivered dose 54 micrograms over 24 hours); and
- Inhaled salmeterol in accordance with the manufacturers' recommended therapeutic regimen.

The presence in urine of salbutamol in excess of 1000 ng/mL or formoterol in excess of 40 ng/mL is presumed not to be an intended therapeutic use of the substance and will be considered as an *Adverse Analytical Finding* (*AAF*) unless the *Athlete* proves, through a controlled pharmacokinetic study, that the abnormal result was the consequence of the use of the therapeutic inhaled dose up to the maximum indicated above.

S4 HORMONE AND METABOLIC MODULATORS

The following hormone and metabolic modulators are prohibited:

1. Aromatase inhibitors including, but not limited to:
4-Androstene-3,6,17 trione (6-oxo);
Aminoglutethimide;
Anastrozole;
Androsta-1,4,6-triene-3,17-dione (androstatrienedione);
Exemestane;
Formestane;
Letrozole;
Testolactone.

2. Selective estrogen receptor modulators (SERMs) including, but not limited to:
Raloxifene;
Tamoxifen;
Toremifene.

3. Other anti-estrogenic substances including, but not limited to:
Clomiphene;
Cyclofenil;
Fulvestrant.

4. Agents modifying myostatin function(s) including, but not limited, to: myostatin inhibitors.

5. Metabolic modulators:
5.1 Activators of the AMP-activated protein kinase (AMPK), e.g. AICAR; and
Peroxisome Proliferator Activated Receptor δ (PPARδ) agonists, e.g. GW 1516;
5.2 Insulins and insulin-mimetics;
5.3 Meldonium;
5.4 Trimetazidine.

PROHIBITED METHODS

S5 DIURETICS AND MASKING AGENTS

The following diuretics and masking agents are prohibited, as are other substances with a similar chemical structure or similar biological effect(s).

Including, but not limited to:

- Desmopressin; probenecid; plasma expanders, e.g. glycerol and intravenous administration of albumin, dextran, hydroxyethyl starch and mannitol.
- Acetazolamide; amiloride; bumetanide; canrenone; chlortalidone; etacrynic acid; furosemide; indapamide; metolazone, spironolactone, thiazides, e.g. bendroflumethiazide, chlorothiazide and hydrochlorothiazide; triamterene and vaptans, e.g. tolvaptan.

Except:

- Drospirenone; pamabrom; and ophthalmic use of carbonic anhydrase inhibitors (e.g. dorzolamide, brinzolamide).
- Local administration of felypressin in dental anaesthesia.

The detection in an *Athlete's Sample* at all times or *In-Competition*, as applicable, of any quantity of the following substances subject to threshold limits: formoterol, salbutamol, cathine, ephedrine, methylephedrine and pseudoephedrine, in conjunction with a diuretic or masking agent, will be considered as an *Adverse Analytical Finding* unless the *Athlete* has an approved *TUE* for that substance in addition to the one granted for the diuretic or masking agent.

M1 MANIPULATION OF BLOOD AND BLOOD COMPONENTS

The following are prohibited:

1. The *Administration* or reintroduction of any quantity of autologous, allogenic (homologous) or heterologous blood, or red blood cell products of any origin into the circulatory system.

2. Artificially enhancing the uptake, transport or delivery of oxygen. Including, but not limited to: Perfluorochemicals; efaproxiral (RSR13) and modified haemoglobin products, e.g. haemoglobin-based blood substitutes and microencapsulated haemoglobin products, excluding supplemental oxygen.

3. Any form of intravascular manipulation of the blood or blood components by physical or chemical means.

M2 CHEMICAL AND PHYSICAL MANIPULATION

The following are prohibited:

1. *Tampering*, or *Attempting to Tamper*, to alter the integrity and validity of *Samples* collected during *Doping Control*.
Including, but not limited to:
Urine substitution and/or adulteration, e.g. proteases.

2. Intravenous infusions and/or injections of more than 50 mL per 6 hour period except for those legitimately received in the course of hospital admissions, surgical procedures or clinical investigations.

M3 GENE DOPING

The following, with the potential to enhance sport performance, are prohibited:

1. The transfer of polymers of nucleic acids or nucleic acid analogues;

2. The use of normal or genetically modified cells.

SUBSTANCES & METHODS
PROHIBITED IN-COMPETITION

IN ADDITION TO THE CATEGORIES S0 TO S5 AND M1 TO M3 DEFINED ABOVE, THE FOLLOWING CATEGORIES ARE PROHIBITED *IN-COMPETITION*:

PROHIBITED SUBSTANCES

S6 STIMULANTS

All stimulants, including all optical isomers, e.g. *d*- and *l*- where relevant, are prohibited.

Stimulants include:

a: Non-Specified Stimulants:

Adrafinil;
Amfepramone;
Amfetamine;
Amfetaminil;
Amiphenazole;
Benfluorex;
Benzylpiperazine;
Bromantan;
Clobenzorex;
Cocaine;
Cropropamide;
Crotetamide;
Fencamine;
Fenetylline;
Fenfluramine;
Fenproporex;
Fonturacetam [4-phenylpiracetam (carphedon)];
Furfenorex;
Mefenorex;
Mephentermine;
Mesocarb;
Metamfetamine(d-);
p-Methylamphetamine;
Modafinil;
Norfenfluramine;
Phendimetrazine;
Phentermine;
Prenylamine;
Prolintane.

A stimulant not expressly listed in this section is a Specified Substance.

b: Specified Stimulants.

Including, but not limited to:

Benzfetamine;
Cathine**;
Cathinone and its analogues, e.g. mephedrone, methedrone, and α- pyrrolidinovalerophenone;
Dimethylamphetamine;
Ephedrine***;
Epinephrine**** (adrenaline);
Etamivan;
Etilamfetamine;
Etilefrine;
Famprofazone;
Fenbutrazate;
Fencamfamin;
Heptaminol;
Hydroxyamfetamine (parahydroxyamphetamine);
Isometheptene;
Levmetamfetamine;
Meclofenoxate;
Methylenedioxymethamphetamine;
Methylephedrine***;
Methylhexaneamine (dimethylpentylamine);
Methylphenidate;
Nikethamide;
Norfenefrine;
Octopamine;
Oxilofrine (methylsynephrine);
Pemoline;
Pentetrazol;
Phenethylamine and its derivatives;
Phenmetrazine;
Phenpromethamine;
Propylhexedrine;
Pseudoephedrine*****;
Selegiline;

Sibutramine;
Strychnine;
Tenamfetamine (methylenedioxyamphetamine);
Tuaminoheptane;

and other substances with a similar chemical structure or similar biological effect(s).

Except:

- Clonidine
- Imidazole derivatives for topical/ophthalmic use and those stimulants included in the 2016 Monitoring Program*.

* Bupropion, caffeine, nicotine, phenylephrine, phenylpropanolamine, pipradrol, and synephrine: These substances are included in the 2016 Monitoring Program, and are not considered *Prohibited Substances*.

** Cathine: Prohibited when its concentration in urine is greater than 5 micrograms per milliliter.

*** Ephedrine and methylephedrine: Prohibited when the concentration of either in urine is greater than 10 micrograms per milliliter.

**** Epinephrine (adrenaline): Not prohibited in local administration, e.g. nasal, ophthalmologic, or co-administration with local anaesthetic agents.

***** Pseudoephedrine: Prohibited when its concentration in urine is greater than 150 micrograms per milliliter.

S7 NARCOTICS

Prohibited:
Buprenorphine;
Dextromoramide;
Diamorphine (heroin);
Fentanyl and its derivatives;
Hydromorphone;
Methadone;
Morphine;
Oxycodone;
Oxymorphone;
Pentazocine;
Pethidine.

S8 CANNABINOIDS

Prohibited:

- Natural, e.g. cannabis, hashish and marijuana, or synthetic Δ9-tetrahydrocannabinol (THC).
- Cannabimimetics, e.g. "Spice", JWH-018, JWH-073, HU-210.

S9 GLUCOCORTICOIDS

All glucocorticoids are prohibited when administered by oral, intravenous, intramuscular or rectal routes.

SUBSTANCES PROHIBITED IN PARTICULAR SPORTS

P1 ALCOHOL

Alcohol (ethanol) is prohibited *In-Competition* only, in the following sports. Detection will be conducted by analysis of breath and/or blood. The doping violation threshold is equivalent to a blood alcohol concentration of 0.10 g/L.

- Air Sports (FAI)
- Archery (WA)
- Automobile (FIA)
- Powerboating (UIM)

P2 BETA-BLOCKERS

Beta-blockers are prohibited *In-Competition* only, in the following sports, and also prohibited *Out-of-Competition* where indicated.

- Archery (WA)*
- Automobile (FIA)
- Billiards (all disciplines) (WCBS)
- Darts (WDF)
- Golf (IGF)
- Shooting (ISSF, IPC)*
- Skiing/Snowboarding (FIS) in ski jumping, freestyle aerials/halfpipe and snowboard halfpipe/big air
- Underwater sports (CMAS) in constant-weight apnoea with or without fins, dynamic apnoea with and without fins, free immersion apnoea, Jump Blue apnoea, spearfishing, static apnoea, target shooting and variable weight apnoea.

*Also prohibited *Out-of-Competition*

Including, but not limited to:

Acebutolol;
Alprenolol;
Atenolol;
Betaxolol;
Bisoprolol;
Bunolol;
Carteolol;
Carvedilol;
Celiprolol;
Esmolol;
Labetalol;
Levobunolol;
Metipranolol;
Metoprolol;
Nadolol;
Oxprenolol;
Pindolol;
Propranolol;
Sotalol;
Timolol.

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WORLD
ANTI-DOPING
AGENCY
play true

PDR Number	**SQ16-000276**
Subject	**The WADA Prohibited List**
Questioner	**Senator Madigan**
Contact Officer	s22 [redacted]
Clearance Officer	
Agency	**Australian Sports Anti-Doping Authority**

Noted

_____ _____

Adviser / Minister Date

ADDITIONAL ESTIMATES HEARING – 6 MAY 2016

Brief Number 12

Brief Title: Cost of Cobia Investigation (including legal costs and financial support for WADA)

KEY POINTS

- The total cost of the Cobia investigation to 31 March 2016 is $6.047m (exclusive of GST).

- External legal costs associated with the Cobia investigation to 31 March 2016 were $4.429m (exclusive of GST) (refer attached table).

- This includes approximately $950,000 for the AFL Tribunal proceeding, and $85,000 so far in dealing with Mr Dank's appeal to the AFL Appeals Board.

- ASADA is yet to incur any legal costs in respect of the Essendon players' appeal to the Swiss Federal Tribunal.

- Costs arising from the Federal Court cases and appeals brought by Mr Hird and the Essendon Football Club totalled $1.816m.

- Following recovery of costs totalling approximately $1.260m, the net cost of those proceedings to the Commonwealth was approximately $0.556m.

- Financial support provided to WADA for the appeal to the Court of Arbitration for Sport (CAS) to 31 March 2016 totalled $0.140m ($140,000) comprised:

  - $0.130m ($130,000)—ASADA's capped $100,000 USD commitment (at prevailing exchange rates).
  - $0.010m ($10,000)—ASADA's component of WADA's CAS arbitration fee (at prevailing exchange rates)

- In addition, ASADA had at 31 March 2016 incurred $0.089m ($89,000) (of which $71,000 were legal) in costs arising from participation in its own right in the WADA appeals against the AFL Tribunal decisions in relation to EFC players and Mr Dank, comprising:

  - $0.037m ($36,740) — CAS arbitration fees (at prevailing exchange rates)
  - $0.012m ($11,874) – payment to counsel representing ASADA at the CAS hearing
  - $0.022m ($22,223) – payments to the Australian Government Solicitor for legal and paralegal support during the CAS hearing in the players' matter.
  - $0.004m ($4,000) —Costs related to transportation of samples to the Cologne laboratory as requested by WADA

- $0.014m ($14,000) — for international travel (incurred in 2014-15).

Author: s22 [redacted]

Executive Clearance: s22 [redacted]

Date Cleared: 3 May 2016

The following table outlines Cobia external legal costs by matter:

COBIA External Legal Costs as at 31 March 2016

	2012-13 000's	2013-14 000's	2014-15 000's	2015-16 000's	Total 000's
Pre- Federal Court	85	497	0	0	**582**
Federal Court/Federal Court Appeal	0	1,322	489	4	**1,816**
Show Cause Notices	0	14	65	3	**82**
AFL Tribunal	0	0	948	1	**949**
Supreme Court Victoria	0	0	397	0	**397**
AAT Matters	0	52	74	0	**126**
Other Related Matters	0	9	132	40	**182**
ASADA assistance to WADA for WADA Appeal	0	0	140	0	**140**
AFL Appeal Board	0	0	0	85	**85**
ASADA's participation in CAS	0	0	19	52	**71**
Total	**85**	**1,894**	**2,264**	**185**	**4,429**

N.B Figures are GST Exclusive

BUDGET ESTIMATES HEARING– 6 MAY 2016

Brief Number 13

Brief Title: Major Events – Rio 2016

KEY POINTS

Rio 2016

- The anti-doping programs for the 2016 Rio Olympic and Paralympic Games commenced on 1 July 2015 in close collaboration with the Australian Olympic Committee and Australian Paralympic Committee.

- The majority of ASADA's government-funded testing in 2015-16 will be directed towards Olympic and Paralympic athletes and teams.

- ASADA has already collected samples from a significant percentage of the expected Olympic and Paralympic teams, however the focus of the testing has remained on quality targeted tests rather than a blanket testing approach.

BACKGROUND

TESTING

- The Australian Olympic Team will have an estimated 450 athletes, and the Australian Paralympic Team will include about 160 athletes.

- The programs have been developed and implemented in collaboration with the Australian Olympic Committee and Australian Paralympic Committee to:
    - reduce the risk of anti-doping rule violations among the Australian Olympic Team (AOT) and Australian Paralympic Team through the implementation of an integrated, intelligence-led anti-doping program
    - detect any potential members of the AOT who may be doping
    - increase awareness and understanding among AOT members of their anti-doping rights and responsibilities as they relate to the 2016 Rio Olympic Games through education and engagement with sports and athletes.

- The risk-based program targets testing towards high-priority sports and at-risk athletes. All AOT athletes in the top eight priority sports of athletics, boxing, canoeing, cycling, rowing, swimming, triathlon and weightlifting will be tested at least once in the lead-up to Rio.

- Progress of pre-Games testing as at 30 April 2016.

	Shadow team	Number tested	Percentage tested
Overall	816	491	60%
Top-8 priority sports	335	248	74%
Highest-rated athletes*	333	241	72%

* Athletes have been rated by the AOC and the APC on the likelihood of selection to the final team. ASADA has been focusing testing resources to those athletes in the' most likely' category.

- ASADA s22 [redacted] is assisting in the coordination of an international pre-Rio taskforce put in place by WADA to monitor and ensure that adequate testing is in place for international at risk sports and countries.

EDUCATION

- ASADA launched its online education module for Rio at the end of April, and has begun branding its LMS with a Rio theme to increase engagement with athletes http://elearning.asada.gov.au

- ASADA attended a number of the AOC Aspire sessions, and filmed interviews with past or aspiring Olympians. Subject to approval from the AOC, these are ready for distribution via our online learning system and YouTube.

Out of a total of 131 selected athletes:

- 122 have registered for ASADA eLearning
- 121 have completed the Level 1 course
- 76 have completed the 2016 Level 2 course
- 2 have completed the Rio Games online course
- 7 have completed a Rio Games face-to-face session

- ASADA will follow up with any selected sports/athletes for which we have no current education records.
- We have also presented Rio specific face-to-face sessions for the Australian women's hockey team and the Australian men's hockey team.
    - This week (5 May) we will be presenting a Rio specific face-to-face session with Rowing Australia's Olympic Shadow Squad.
    - Rugby Sevens and Volleyball Australia have also booked Rio specific face-to-face sessions in June and July.

Author: s22 [redacted]

Executive Clearance: s22 [redacted]

Date Cleared: Click here to enter a date.

BUDGET ESTIMATES HEARING—6 MAY 2016

Brief Number 14

Brief Title: Budget Measures

KEY POINTS

2018 COMMONWEALTH GAMES

- The PBS includes a new funding measure (2018 Gold Coast Commonwealth Games – Pre-Event Anti-Doping Program) totaling $1.494m over 3 years commencing in 2016-17.

- The purpose of the measure is to contribute towards the integrity of the Games by augmenting ASADA's pre-event anti-doping plans in the 12 months running up to the commencement of the Games in April 2018.

- The measure has 2 components:

  - **$0.6m** to augment ASADA's program focusing on Australian Athletes, including additional testing (375) to bring total planned government funded testing to approximately 2,600.

  - **$0.9m** to conduct a targeted anti-doping program involving International Athletes likely to compete in the

Games, including up to 375 tests to be conducted internationally.

- The following table outlines the measure components by budget year:

	($) M's 16-17	($) M's 17-18	($) M's 18-19	($) M's TOTAL
Australian Athletes	0.148	0.449	0.006	**0.603**
International Athletes	0.217	0.668	0.006	**0.891**
TOTAL	**0.365**	**1.117**	**0.012**	**1.494**
Avg. Staffing Level (ASL) Impact [1]	**1.0**	**3.0**	**Nil**	**4.0**

[1] The ASL impact is not currently included in the PBS with all costs reflected as supplier costs, subject to portfolio offsets to the Governments ASL cap.

MYEFO SAVINGS MEASURE

- The 2016-17 PBS includes a further savings measure (not included in the measure table) of $0.019m in 16-17 and $0.039m per annum over the forward estimates as part of the 2015-16 MYEFO 'Smaller Government' measure.

- The measure is in addition to the 2014-15 MYEFO measure of approx. $0.400m (net of $0.302m per annum restored by Health).

Author: s22 [redacted]

Executive Clearance: s22 [redacted]

Date Cleared: 3 May 2016

ASADA Finances over Time
2011-12 thru 2018-19

	2011-12 Actual Outcome $ 000's	$ 000's	2012-13 Actual Outcome $ 000's	$ 000's	2013-14 Actual Outcome $ 000's	$ 000's	2014-15 Actual Outcome $ 000's	$ 000's	Annual 2015-16 PBS $ 000's	$ 000's	2016-17 PBS: Annual 2015-16 Estimated $ 000's	$ 000's	Annual 2016-17 Budget $ 000's	$ 000's	Annual 2017-18 Budget $ 000's	$ 000's	Annual 2018-19 Budget $ 000's	$ 000's	Annual 2019-20 Budget $ 000's
REVENUE																			
Appropriations																			
- Baseline	12,883	(356)	12,527	0	12,527	(103)	12,424	(319)	12,105	(7)	12,098	(95)	12,003	197	12,200	110	12,310	79	12,389
- 2018 Comm. Games Measure	-	-	-	-	-	-	-	-	-	-	-	365	365 [10]	752	1,117 [10]	(1,105)	12 [10]	(12)	-
- MYEFO Savings Measure	-	-	-	-	-	-	-	-	-	-	-	(737)	(737)	(17)	(754)	(7)	(761)	-	(761)
- MYEFO Savings Measure Restoration	-	-	-	-	-	-	-	-	-	-	-	302	302	-	302	-	302	-	302
- 13-14 Measure	-	400	400	450	850	(340)	510	(510)	-	-	-	-	-	-	-	-	-	-	-
- One-off VR Funding	-	-	-	671	671	(671)	-	129	129	-	129	(129)	-	-	-	-	-	-	-
	12,883	**44**	**12,927**	**1,121**	**14,048**	**(1,114)**	**12,934**	**(700)**	**12,234**	**(7)**	**12,227** [7]	**(294)**	**11,933**	**932**	**12,865**	**(1,002)**	**11,863**	**67**	**11,930**
User-Pays Revenues/Other	1,647	43	1,690	315	2,005	(352)	1,653	65	1,718	123	1,841 [11]	(98)	1,743	43	1,786	51	1,837	55	1,892
Federal Court Cost Recoveries	-	-	-	-	-	555	555	(555)	-	765	765 [8]	(765)	-	-	-	-	-	-	-
MOU Funding																			
- ABP	-	300	300	-	300	-	300	-	300	-	300	(300)	-	-	-	-	-	-	-
- Cobia	-	450	450	490	940	(130)	810	(810)	-	-	-	-	-	-	-	-	-	-	-
External Revenues	**1,647**	**793**	**2,440**	**805**	**3,245**	**73**	**3,318**	**(1,300)**	**2,018**	**888**	**2,906**	**(1,163)**	**1,743**	**43**	**1,786**	**51**	**1,837**	**55**	**1,892**
TOTAL REVENUE	**14,530**	**836**	**15,366**	**1,927**	**17,293**	**(1,041)**	**16,252**	**(2,000)**	**14,252**	**881**	**15,133**	**(1,457)**	**13,676**	**975**	**14,651**	**(951)**	**13,700**	**122**	**13,822**
EXPENSES																			
Employee Expenses	**8,669**	**347**	**9,017**	**687**	**9,704**	**(2,174)**	**7,530**	**# 216**	**7,746**	**(687)**	**7,059**	**(164)**	**6,895**	**266**	**7,161**	**(270)**	**6,891**	**172**	**7,063**
ASL	**74.0**	5.0	**79.0**	1.0	**80.0**	(22.0)	**58.0**	# (1.0)	**57.0** [4]	(4.0)	**53.0** [5]	(3.0)	**50.0** [6]	-	**50.0** [6]	-	**50.0** [6]	-	**50.0** [6]
Consultants/Contractors	414	75	489	225	714	(53)	661	(138)	523	**(1)**	522	-	522	-	522	-	522	-	522
Travel	292	98	391	(75)	316	50	366	(78)	288	**0**	288	-	288	-	288	-	288	-	288
Supplier Expenses	5,060	342	5,402	2,411	7,812	(842)	6,970	(1,275)	5,695	**318**	6,013	(43)	5,970	709	6,679	(681)	5,998	(50)	5,948
TOTAL EXPENSES attrib. to ASADA	**14,435**	**862**	**15,298**	**3,248**	**18,545**	**(3,018)**	**15,527**	**(1,275)**	**14,252**	**(369)**	**13,883**	**(207)**	**13,676**	**975**	**14,651**	**(951)**	**13,700**	**122**	**13,822**
SURPLUS/(DEFICIT) attrib. to ASADA	**95**	**(26)**	**69**	**(1,321)**	**(1,253)**	**1,978**	**725**	**(725)**	**-**	**1,250**	**1,250**	**(1,250)** [9]	**-**	**-**	**-**	**-**	**-**	**-**	**-**
Depreciation & Amortisation	702	41	743	(49)	694	(185)	509	5	514	-	514	(71)	443	(5)	438	(98)	340	(100)	240
TOTAL EXPENSES	**15,137**	**903**	**16,041**	**3,199**	**19,240**	**(3,204)**	**16,036**	**(1,270)**	**14,766**	**(369)**	**14,397**	**(278)**	**14,119**	**970**	**15,089**	**(1,049)**	**14,040**	**22**	**14,062**
SURPLUS/(DEFICIT) attrib. to GOV'T	**(607)**	**(67)**	**(674)**	**(1,272)**	**(1,947)**	**2,163**	**216**	**(730)**	**(514)**	**1,250**	**736**	**(1,179)**	**(443)**	**5**	**(438)**	**98**	**(340)**	**100**	**(240)**

NOTES

1 $940k in 13-14 comprises $205k (Downes Review), $735k DoH Cobia Support. $810k in 14-15 represents DoH support for Cobia Legal Costs.

2 Includes a $595 Redundancy Provision for the June 2014 Restructure.

3 ASL reduction of 22 reflects the a combination of the June 2014 Restructure (16), Unfilled Positions (3) as part of the loss mitigation strategy, and positions filled by non-ongoing contract staff (3).

4 The planned ASL reduction of 1 reflected the net of reductions associated with the 1st full year of shared services reductions and the projected staff reductions through productivity increases in test collections, offset by a reduction in unfilled positions.

5 The estimated ASL reduction of 5 over 14-15 reflects the combination of unfilled positions and the implementation of test collections being achieved ahead of schedule.

6 The estimated ASL reduction of 3 reflects the outcome of the 2014-15 MYEFO measure.

7 The net reduction of $294k reflects one-off redundancy funding ($129k) in 15-16, a net reduction in 16-17 of $470k in MYEFO shared services savings (after restoration of $302k from Health, formerly $708k), and $365k for the 16-17 Comm. Games Measure.

8 Federal Court Cost Recoveries total $1,290k, including $1,259k relating to the EFC/Hird matters and an estimate of $31k relating to the Kemp matter.

9 The projected surplus reflects a combination of factors including Federal Court Cost Recoveries exceeding estimates in the 14-15 accounts by $753k, higher User-Pays revenues as a result of pre-Rio agreemnsts with IF's and o/s NADO's, lower staff costs due to a combination of vacant positions and accelerated tests collection restructuring outcomes, combined with lower levels of supplier costs due to lower post Cobia activity that projected.

11 The 2016-17 Comm. Games measure is $365k for 16-17, $1,117k for 17-18 and $12k for 18-19. The measure is currently reflected as supplier costs only (subject to resolving portfolio ASL offsets). The ASL impacts are 1 in 16-17 and 3 in 17-18.

BUDGET ESTIMATES HEARING—6 MAY 2016

Brief Number: 16

Brief Title: Key statistics – ASADA operations

Program	Description	2014–15	2015–16 (as at 31 Mar 2016)	Page reference
Deterrence	Education – completions	15,298	**13,676**	3
	TUE applications	369	**208**	3
	CYS searches	101,752	**85,117**	3
Detection	Testing: GF	2,742	**2,452**	2
	Testing: UP	2,404	**2,269**	2
	Stamp out doping hotline	122	**98**	4
	Disclosure notices	13	**3**	4
	Samples tanked	621	**79**	5
Other	FOI requests	21	**13**	5
Enforcement	Sanctions	45	**57**[1]	6
	Show cause notices	54	**12**	5

[1] As at 4 May 2016

BACKGROUND

Activity	Description	2014–15	2015–16 as at 31 Mar 2016
Testing: Govt-funded	IC urine	768	854
	OOC urine	1,125	878
	Total urine	**1,893**	**1,732**
	IC blood	98	52
	OOC blood	751	668
	Total blood	**849**	**720**
	Total urine + blood	**2,742**	**2,452**
Testing: User-pays	IC urine	799	585
	OOC urine	1,045	1,282
	Total urine	**1,844**	**1,867**
	IC blood	6	3
	OOC blood	554	399
	Total blood	**560**	**402**
	Total urine + blood	**2,404**	**2,269**

Activity	Description	2014–15	2015–16 as at 31 Mar 2016
Education: core resources	Level 1 online	8,603	7,608
	Level 2 online	4,986	4,259
	Face-to-face	1,709	1,809
	Total	**15,298**	**13,676**
TUEs	Approved	234	121
	Not required	52	30
	Determined as planned retroactive	30	41
	Rejected	5	2
	Other (closed or pending)	48	14
	Total received	**369**	**208**
Substance searches	Check Your Substances	99,001	85,117

Activity	Description	2014–15	2015–16 as at 31 Mar 2016
Stamp out doping	Online form	87	72
	Hotline or telephone	18	16
	Email	8	5
	Post	1	2
	Human source	8	3
	Total	**122**	**98**
Disclosure notices	Notices issued[2]	13	3
	Persons/entities issued notices	5	2
	Infringement notices	0	0
	Persons/entities served infringement notices	0	0

[2] Noting these numbers include persons/entities issued replacement disclosure notices

Activity	Description	2014–15	2015–16 as at 31 Mar 2016
Long-term storage facility	Urine samples	45	125
	Blood samples	576	94
	Total urine + blood	**621**	**219**
	Total samples tanked – urine + blood (since 2007)	**5,450**	**5,669**
FOI requests	Received	21	13
	Finalised	20	10
	Being processed	2	3
	Refused	11	6
Show cause notices	Athletes	53	12
	Support personnel	1	0
	Total	**54**	**12**
	Sports	10	9

Activity	Description	2014–15	2015–16 as at 4 May 2016
Sanctions	Athletes	44	57
	Support personnel	1	0
	Total	**45**	**57**
	Sports	11	10

BUDGET ESTIMATES HEARING—6 MAY 2016

Brief Number 16

Brief Title: Sanctions and Show Cause notices

KEY POINTS

Sanctions

- In 2015–16 (until 4 May 2016), 11 sports have issued 57 sanctions for anti-doping rule violations.

- In the 2014–15 financial year, 11 sports have issued 45 sanctions for anti-doping rule violations.

Show Cause

- In 2015–16 (until 4 May 2016), 9 sports have issued 12 show-cause notices for anti-doping rule violations.

- In the 2014–15 financial year, 10 sports have issued 54 show-cause notices for anti-doping rule violations.

BACKGROUND

Sanctions

Code	Sanctions 2014–15	Sanctions 2015–16 to 4 May 2016
Australian Rules Football	2	37
Rugby League	18	9
Canoe/ Surf Life Saving Australia	3 (SLSC)	1
Rugby Union		1
Bodybuilding	10	3
Baseball	1	2
Table Tennis		1
Athletics	2	1
Cycling	1	1
Powerlifting	3	1
Tennis	1	
Weightlifting	2	
Wrestling	2	
TOTAL	45	57

Show cause notices

Code	Show Cause 2014–15	Show Cause 2015–16 to 4 May 2016
Australian Rules Football	4	
Rugby League	29	2
Surf Life Saving Australia	3	
Bodybuilding	10	4
FFA	1	
Baseball	2	1
Darts	1	
Cycling	1	
Table Tennis		1
Weightlifting	1	1
Wrestling	2	
Powerlifting		1
Swimming		1
Hockey		1
TOTAL	54	12

Author: s22 [redacted]

Executive Clearance: s22 [redacted]

Date Cleared: 4 May 2016

ADDITIONAL ESTIMATES HEARING— 6 MAY 2016

Brief Number 17

Brief Title: Agency Budget and Financial Situation

KEY POINTS

- ASADA's ASL was originally forecast to reduce from 60 to 57 in 2015-16, primarily due to the full year effect of the transition to shared services and planned efficiency measures in test collection services.

- The forecast ASL in the 16-17 PBS is 53 due to a combination of vacant positions and earlier than anticipated implementation of the test collection efficiency measures.

- The ASL forecast for 2016-17 and out years is 50, which reflects the full year implementation of the tests collection measures and is consistent with the reduction included in the 2014-15 MYEFO measure.

- ASADA has received a new funding measure ($1.494m) from 16-17 to augment ASADA's delivery of a pre-games program to ensure the integrity of both Australian and International athletes participating in the games.

- ASADA's resources over the forward estimates do not currently allow for engagement in the 2018 Gold Coast Commonwealth Games beyond the pre-games program.

- ASADA will work with the Australian Commonwealth Games Association (ACGA) to develop and implement an anti-doping testing and education program for Australian athletes in the lead up to the Gold Coast 2018 Commonwealth Games.

- ASADA's resource position over the forward estimates remains challenging with a reliance on the implementation of potential savings from revised test collection arrangements and other initiatives to respond to the challenges of the Efficiency Dividend and other lapsing measures without impact on our operational capability.

- Due to a combination of the increased complexity of non-analytical anti-doping violations and the increase in protracted and contested violations, ASADA remains limited in its potential to prosecute potential violations without recourse to additional resources as was the case in the 2013-14 and 2014-15 financial years.

- Resolution of the future arrangements and cost of domestic analysis arrangements provided by National Measurement Institute (NMI) remains the largest single resource issue for ASADA and impacts of the viability of code compliance testing activities.

- ASADA is to meet with the Department of Industry, Innovation and Science to respond to the outcomes of a contestability review of NMI encompassing ASDTL (the Australian Sports Drug Testing Laboratory), the WADA accredited testing laboratory.

BACKGROUND

- ASADA has forecast an operating surplus in 2015-16 of $1.250m primarily due to:

    - The outcome of Federal Court cost orders settlements (Hird & Essendon) exceeding the estimates included in the 2014-15 financial statements by approximately $0.705m ($1.259 m vs. $0.555m), combined with:

    - Lower than anticipated staff costs resulting from staff vacancies and the earlier than anticipated implementation of restructuring of test collections, and lower than anticipated supplier costs.

- ASADA's resource position over the forward estimates remains challenging with a reliance on the implementation of potential savings from revised test collection arrangements and other initiatives to respond to the challenges of the Efficiency Dividend and other lapsing measures without impact on our operational capability.

- Due to a combination of the increased complexity of non-analytical anti-doping violations and the increase in protracted and contested violations, ASADA remains limited in its potential to prosecute potential violations without recourse to additional resources as was the case in the 2013-14 and 2014-15 financial years.

Author: s22 [redacted]

Executive Clearance: s22 [redacted]

Date Cleared: 3 May 2016

BUDGET ESTIMATES HEARING—6 MAY 2016

Brief Number 18

Brief Title: Global DRO

KEY POINTS

- As of 26 April 2016, ASADA has adopted *Global DRO* as its online medications search tool. This replaces *Check Your Substances.*
- An advantage of *Global DRO* is that it provides additional information on medications that previously athletes and support staff had to contact ASADA by phone to obtain.
- A further advantage is that it enables athletes to search the status of medications obtained in the US, UK, Canada and Japan.

BACKGROUND

- ASADA has changed its online substance-checker tool from *Check Your Substances* to *GlobalDRO.*
- *Global DRO* is a mobile-enhanced search tool which enables athletes and support staff to search the status of medications and substances.
- *Global DRO* is offered through a partnership between the United States Anti-Doping Agency (USADA), the UK Anti-Doping (UKAD), the Canadian Centre for Ethics in Sport (CCES) and Anti-Doping Switzerland (ADCH). The Japan Anti-Doping Agency (JADA) became a licensee in 2013, followed by Australia (ASADA). This is another example of international cooperation toward our common goal of protecting athletes' rights to clean and fair sport.

- Australian athletes can now search the status of ingredients and brands of medications that they might encounter outside of Australia. Some medications obtained overseas have the same brand name as medications sold in Australia, but they may contain different ingredients. Although the name and logo may be identical to that in Australia, overseas products may contain substances that are prohibited in sport.
- *Global DRO* provides additional information that was not previously available via *Check Your Substances*. For example an athlete searching for the status of asthma medication Ventolin on *CYS* would be directed to call ASADA to clarify how often they could use the substance. Instead, *Global DRO* states that an athlete is allowed 16 puffs per day without a Therapeutic Use Exemption, so no further follow-up is required by athletes.
- *Global DRO* is updated regularly throughout the year when new medications are approved by government regulatory authorities, when ASADA receives updated brand and drug formulation data, and when the World Anti-Doping Agency modifies the Prohibited List.
- The ongoing annual cost to ASADA of *Global DRO* is approximately $24K which includes *Global DRO* license fees, provision of data by MIMS and review by an external pharmacist. *CYS* had an annual cost of $7K with additional costs for any modifications/developments to the system.

Author: s22 [redacted]

Executive Clearance: s22 [redacted]

Date Cleared: 29 September 2015

BUDGET ESTIMATES HEARING– 6 MAY 2016

Brief Number 19

Brief Title: Agency Staffing

KEY POINTS

- As part of the Commonwealth Government's Budget approach ASADA is subject to a cap on the Authority's average staffing level (ASL) for 2016-17 and the Forward Estimates of 50 ASL.

- ASADA's projected ASL for 2015-16 is 53.

- The reduction in ASL 2015-16 to 2016-17 largely reflects the impact of efficiency gains linked to ASADA's 2015 Contestability Review of its test collection activities.

- ASADA has raised the issue of flexibility in the ASL cap with the Portfolio Department to accommodate the impact of variations in demand for test collection services, including the impact of the 2016-17 '2018 Gold Coast Commonwealth Games – Pre-event Anti-Doping Program' measure, and the further potential to provide services to major events including the 2018 Commonwealth Games.

BACKGROUND

Average Staffing Levels (ASL)			
Date	Full & Part-Time	Casuals	ASL
30 June 2008	58.0	12.0	70.0
30 June 2009	56.0	12.0	68.0
30 June 2010	56.4	12.0	68.4
30 June 2011	63.0	12.0	75.0
30 June 2012	60.0	12.0	72.0
30 June 2013	66.2	12.8	79.0
30 June 2014	67.5	12.5	80.0
30 June 2015	52.5	5.5	58.0
30 June 2016*	50.2	6.8	57.0
YTD to 31 March 2016	47.6	5.7^	53.3

* This is the forecast in the 2015-16 PBS. The estimated actual in the 2016-17 PBS is 53.

^ Reflects the actual hours worked by casuals to date this financial year represented as a FTE.

- The 2014-15 reduction from 80 – 58 ASL was a result of:

- The post COBIA transition to a results management phase (funded through a $1.25M loss in the 2013-14 FY) (approximately six (6) ASL).

- A reduction in test planning and collection staff as the Agency transitions to a smaller, more targeted testing program which facilitates a shift to more intelligence based investigations and testing in line with the revised Code (six (6) ASL).

- Responses to the Efficiency Dividend (ED) and the mid-year move to portfolio based “shared services” (six (6) ASL).

- Delayed recruitment actions on vacancies across the agency, as part of the loss mitigation strategy, giving us an average of two (2) ASL.

- The use of labour hire staff to fulfill short-term vacancies (two (2) ASL).

The following provides data on ASADA staff headcount as at 31 March 2016:

Ongoing, non-ongoing and casual staff by classification groups and location at 31 March 2016											
State	APS1	APS2	APS3	APS4	APS5	APS6	EL1	EL2	SES	CEO	Total
ACT	13		3	5	10	9	10	5	2	1	58
NSW	45		3	1							49
NT	1		1								2
QLD	35		4	1							40
SA	17		2								19
TAS	15		2								17
VIC	30		2	3			1				36
WA	15		3								18
Total	171		20	10	10	9	11	5	2	1	239

- The above figures include six (6) full and part-time Doping Control Officers (at the APS 4 level) and 18 Casual Doping Control Officers (at the APS 3 level). The figures do not include an Australian Federal Police employee who is seconded at the EL2 level.

Author: s22 [redacted] s22 [redacted]

Executive Clearance: s22 [redacted]

Date Cleared: 2 May 2016

ADDITIONAL ESTIMATES HEARING— 6 FEBRUARY 2016

Brief Number 20

Brief Title: Enterprise Bargaining

KEY POINTS

- ASADA issued the Notice of Employee Representational Rights (NERR) on 22 January 2016, and commenced bargaining meetings on the 24 March 2016.

- ASADA did not wish to commence the bargaining process before the outcome of the Contestability Review (CR) of its Test Collection processes (which cover 80% of staff potentially covered by any future enterprise agreement) was finalised.

- ASADA has conducted 4 bargaining meetings (the last of which was on 27 April 2016) and is moving towards a final meeting at which the Authority would like to conclude bargaining and prepare a final agreement for approval by the PS Commissioner.

BACKGROUND

- The 2012- 2014 ASADA EA reached its nominal expiry date on 30 June 2014. Prior to this date, ASADA and the CPSU reached agreement on representation and facilities.

- ASADA conducted a staff presentation on 3 September 2014 to introduce staff to the bargaining environment and commence the pre-bargaining consultation process. The CPSU held two staff meetings on 22 and 23 October 2014.

- ASADA has worked with the APSC to finalise a streamlined draft agreement consistent with the APS Bargaining Framework. The APS Commissioner approved the CEO's remuneration proposal on 22 January 2016 with ASADA issuing the NERR on the same date.

- ASADA has conducted 4 bargaining meetings (the first on 24 March 2016, the last on 27 April 2016) and continues to work with employee and CPSU bargaining representatives and APSC to finalise an agreement consistent with the APS Bargaining Framework.

Author: s22 [redacted]

Executive Clearance: s22 [redacted]

Date Cleared: 3 May 2016

ADDITIONAL ESTIMATES HEARING– 6 MAY 2016

Brief Number: 21

Brief Title: Restructuring in the Field

KEY POINTS

- ASADA has completed the initial phase of a restructure of its field based test collection group in response to a contestability review of its testing activities.

- This restructuring has involved a reduction in the number of ongoing Doping Control Officers from 7 to 4, as a consequence of the progressive reduction in testing numbers in recent years, plus the increased proportion of targeted testing.

- The initial restructuring was completed on 31 March 2016.

- Further incremental productivity initiatives are planned for completion over the next 18 months.

BACKGROUND

- ASADA has completed the initial phase of a restructure of its field based test collection group in response to a contestability review (CR) of its testing activities. The CR indicated scope for increased efficiency in our field operations and recommended the conduct of an internal review in parallel with an independent market assessment of alternative providers.

- Both reviews were conducted and finalised in the second half of 2015. The recommendation arising from the reviews was that ASADA continue to undertake field services internally (based on no compelling economic advantage arising from the market assessment) and the adoption of recommendations of the internal review, which were accepted by the CEO.

- The most significant initial changes arising from the recommendations is a restructuring of the field staff with a reduction in permanent Doping Control Officers (DCO's) from 7 to 4, aimed at responding to a reduced level of testing, and the increased occurrence of irregular and more targeted testing activities.

- The other changes to be phased in over the next 18 months to gain extra efficiencies include the:

  - introduction of a more centralised logistics model,
  - revision of the current policies and procedures to reduce duplication and inefficiencies,
  - development and introduction of sample collection benchmarks as part of an ongoing process improvement program,
  - undertaking of a comprehensive review of current blood collection arrangements and the examination of opportunities for improved test planning to reduce the incidence of "Missed Missions".

- The restructuring resulted in 3 voluntarily redundant positions which were finalised on 31 March 2016 financial year. All affected staff were advised of the changes which affected officers in Sydney, Melbourne and Canberra. The CPSU has been kept abreast of the review outcomes and the implementation.

Author: s22 [redacted]

Executive Clearance: s22 [redacted]

Date Cleared: 3 May 2016

SENATE COMMUNITY AFFAIRS LEGISLATION COMMITTEE

Public Hearings: BUDGET ESTIMATES 2016–17

Friday 6 May 2016

Committee Room 2S1, Parliament House, Canberra ACT

To be televised on Channel 112 /Radio 90.3, http://www.aph.gov.au/News_and_Events/Watch_Parliament

Departmental Attendance Summary
Health—9:00am–3:25pm
Social Services—3:35pm –9:20pm
Human Services—9:30pm–11:00pm

FRIDAY, 6 MAY 2016	
	HEALTH PORTFOLIO
	Department of Health
TIME	***PROGRAM***
9:00am – 9:30am (30 mins)	**Whole of Portfolio/ Corporate Matters**
9:30am – 10:15am (45 mins)	**Outcome 4: Acute Care**
	Program 4.1: Public Hospitals and Information
10:15am – 11:00am (45 mins)	**Outcome 3: Access to Medical and Dental Services**
	Program 3.1: Medicare Services Program 3.2: Targeted Assistance—Medical Program 3.3: Pathology and Diagnostic Imaging Services and Radiation Oncology Program 3.4: Medical Indemnity Program 3.5: Hearing Services Program 3.6: Dental Services
11:00am – 11:10am (10 mins)	*Break*
11:10am – 11:55am (45 mins)	**Outcome 5: Primary Health Care**
	Program 5.1: Primary Care Financing Quality and Access Program 5.2: Primary Care Practice Incentives Program 5.4: Mental Health Program 5.5: Rural Health Services Medicare Locals

	GP SuperClinics
11:55am – 12:25pm (30 mins)	**Outcome 2: Access to Pharmaceutical Services**
	Program 2.1: Community Pharmacy and Pharmaceutical Awareness Program 2.2: Pharmaceuticals and Pharmaceutical Services Program 2.3: Targeted Assistance—Pharmaceuticals Program 2.4: Targeted Assistance—Aids and Appliances
12:25pm – 12:55pm (30 mins)	**Outcome 11: Ageing and Aged Care**
	Program 11.1: Access and Information Program 11.2: Home Support Program 11.3: Home Care Program 11.4: Residential and Flexible Care Program 11.5: Workforce and Quality Program 11.6: Ageing and Service Improvement
12:55pm – 1:40pm (45 mins)	*Lunch*
1:40pm – 2:10pm (30 mins)	**Outcome 7: Health System Capacity and Quality**
	Program 7.1: e-Health Implementation Program 7.2: Health Information Program 7.3: International Policy Engagement Program 7.4: Research Capacity and Quality Program 7.5: Health Infrastructure Program 7.6: Blood and Organ Donation Program 7.7: Regulatory Policy
2:10pm –2:40pm (30 mins)	**Outcome 1: Population Health**
	Program 1.1: Public Health, Chronic Disease and Palliative Care Program 1.2: Drug Strategy Program 1.3: Immunisation National Health and Medical Research Council
2:40pm –3:10pm (30 mins)	**Outcome 6: Private Health**
	Program 6.1: Private Health Insurance
3:10pm – 3:25pm (15 mins)	**Outcome 10: Sport and Recreation**
	Program 10.1: Sports and Recreation Australian Sports Anti-Doping Authority (ASADA)
3:25pm – 3:35pm (10 mins)	*Break*

	SOCIAL SERVICES PORTFOLIO
	Department of Social Services
3:35pm - 4:20pm (45 mins)	**Cross Outcomes/ Corporate Matters**
4:20pm – 6:20pm (120 mins)	**Outcome 1: Social Security**
	Program 1.1: Family Tax Benefit Program 1.2: Child Payments Program 1.3: Income Support for Vulnerable People Program 1.4: Income Support for People in Special Circumstances Program 1.5: Supplementary Payments and Support for Income Support Recipients Program 1.6: Income Support for Seniors Program 1.7: Allowances and Concessions for Seniors Program 1.8: Income Support for People with Disability Program 1.9: Income Support for Carers Program 1.10: Working Age Payments Program 1.11: Student Payments
6:20pm – 7:05pm (45 mins)	*Dinner*
7:05pm – 7:50pm (45 mins)	**Outcome 5: Disability and Carers**
	Program 5.1: Disability, Mental Health and Carers Scheme Program 5.2: National Disability Insurance Scheme National Disability Insurance Agency
7:50pm – 8:35pm (45 mins)	**Outcome 2: Families and Communities**
	Program 2.1: Families and Communities Program 2.2: Paid Parental Leave Program 2.3: Social and Community Services
8:35pm – 9:20pm (45 mins)	**Outcome 4: Housing** Program 4.1: Housing and Homelessness Program 4.2: Affordable Housing
9:20pm – 9:30pm (10 mins)	*Break*
	HUMAN SERVICES PORTFOLIO
	Department of Human Services
9:30pm – 10:30pm (60 mins)	**Whole of Department—Corporate Matters**

10:30pm – 11:00pm (30 mins)	**Outcome 1: Support individuals, families and communities to achieve greater self-sufficiency; through the delivery of policy advice and high quality accessible social, health and child support services and other payments; and support providers and businesses through convenient and efficient service delivery.**		
	Program 1.1: Services to the Community - Social Security and Welfare Program 1.2: Services to the Community - Health Program 1.3: Child Support		
Proposed breaks	Morning tea	11:00am	11:10am
	Lunch	12:55pm	1:40pm
	Afternoon tea	3:25pm	3:35pm
	Dinner	6:20pm	7:05pm
	Evening Break	9:20pm	9:30pm

Committee Chair: Senator Zed Seselja
Contact: Community Affairs Committee Secretariat (02) 6277 3516
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PARLIAMENT of AUSTRALIA

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Senators Eric Abetz, Chris Back, Cory Bernardi, Catryna Bilyk, David Bushby, Doug Cameron, Kim Carr, Jacinta Collins, Stephen Conroy, Sam Dastyari, Richard Di Natale, Sean Edwards, David Fawcett, Alex Gallacher, Sarah Hanson-Young, Bill Heffernan, David Johnston, Chris Ketter, Jacqui Lambie, Glenn Lazarus, David Leyonhjelm, Sue Lines, Scott Ludlam, Joseph Ludwig, Ian Macdonald, John Madigan, Gavin Marshall, Jenny McAllister, Anne McEwen, Bridget McKenzie, Nick McKim, Jan McLucas, Claire Moore, Ricky Muir, Deborah O'Neill, Barry O'Sullivan, Nova Peris, Helen Polley, Linda Reynolds, Lee Rhiannon, Janet Rice, Robert Simms, Lisa Singh, Dean Smith, Glenn Sterle, Anne Urquhart, Zhenya Wang, Larissa Waters, Peter Whish-Wilson, John Williams, Penny Wong, Nick Xenophon

SENATE COMMITTEE PUBLIC HEARINGS
ARRANGEMENTS FOR WITNESSES AND ATTENDEES

1. The following arrangements will be observed for public hearings held in Parliament House:
2. Bookings for public hearings should be made to the Senate Hotline Ext 3500 or email senate.hotline@aph.gov.au for inclusion in the Venue Management System (VMS). Both Black Rod's Office and Security use this system to allocate resources for hearings. Changes to the Committee name, timings and hearing purpose should be emailed once confirmed to senate.hotline@aph.gov.au (cc pssrosteroffice@aph.gov.au). Where a hearing has been listed as public on the VMS system, the PSS Roster Office will contact committee staff on the day prior to confirm public access timings. Please note that PSS Officers are in position outside the relevant committee room 30 minutes prior to a hearing commencing. Any changes to timings within 24 hours should also be telephoned through to the Roster Office on extension 5862.

Members of the public

3. Members of the public are permitted to access public hearing rooms at any time. They **will not** be required to have a pass to attend a public hearing, nor will they be required to produce any identification.
4. Hearings commencing prior to 9.00 am or after 6.00 pm (or an hour after last house rises on sitting days) are still open to members of the public. In these instances, members of the public will be escorted from the entrance to the Committee Room by a PSS officer. The PSS will endeavour to get members of the public to the hearing room approximately 5 minutes before the scheduled start of the hearing.

Witnesses and attendees

5. Lists of known witnesses to hearings need to be emailed to security at securitypass@aph.gov.au by 3.30 pm the night before the hearing. Security will send an email to acknowledge receipt.
6. All witnesses and attendees, except Commonwealth employees and those with photographic passes, **should** access Parliament House via the main front entrance. (If the main front entrance is closed, a sign will direct them to security point 1 – Main Public Car Park). However, if a non pass holder arrives at the Senate or Reps entry, the ***committee secretariat should be contacted to organise signing in and escort*** of the witness rather than sending the witness to the main front entrance***.*** They **will not** be required to have a pass to attend the hearing. They will be able to access the public facilities (including public toilets on level 2 of the Main Committee Room foyer).
7. Where a hearing commences prior to 9.00 am or after 6.00 pm (or an hour after last house rises on sitting days), witnesses and attendees who are not Commonwealth employees will be escorted to the Committee Room by a PSS officer. In these instances there may be a wait of up to 10 minutes whilst a patrol officer is called. Access to the building will be available up to 30 minutes prior to the scheduled start time of the hearing. If a witness arrives earlier than this, the committee secretariat is to be contacted to confirm the location to which the witness is to be escorted by the PSS officer.

Commonwealth employees

8. Commonwealth employees who are attending hearings as a witness, observer or in another capacity, including those attending estimates hearings, may access Parliament House using any of the entrances. If a Commonwealth employee does not already have a Parliament House photographic pass, they will be issued with an estimates pass to allow them to walk through the private areas of the building to access the committee room. In order for a pass to be issued:

- the Commonwealth employee's name must be on the list of witnesses and attendees provide by the committee to security prior to the hearing; and

- the Commonwealth employee must produce photographic ID which includes their full name (eg Drivers Licence).

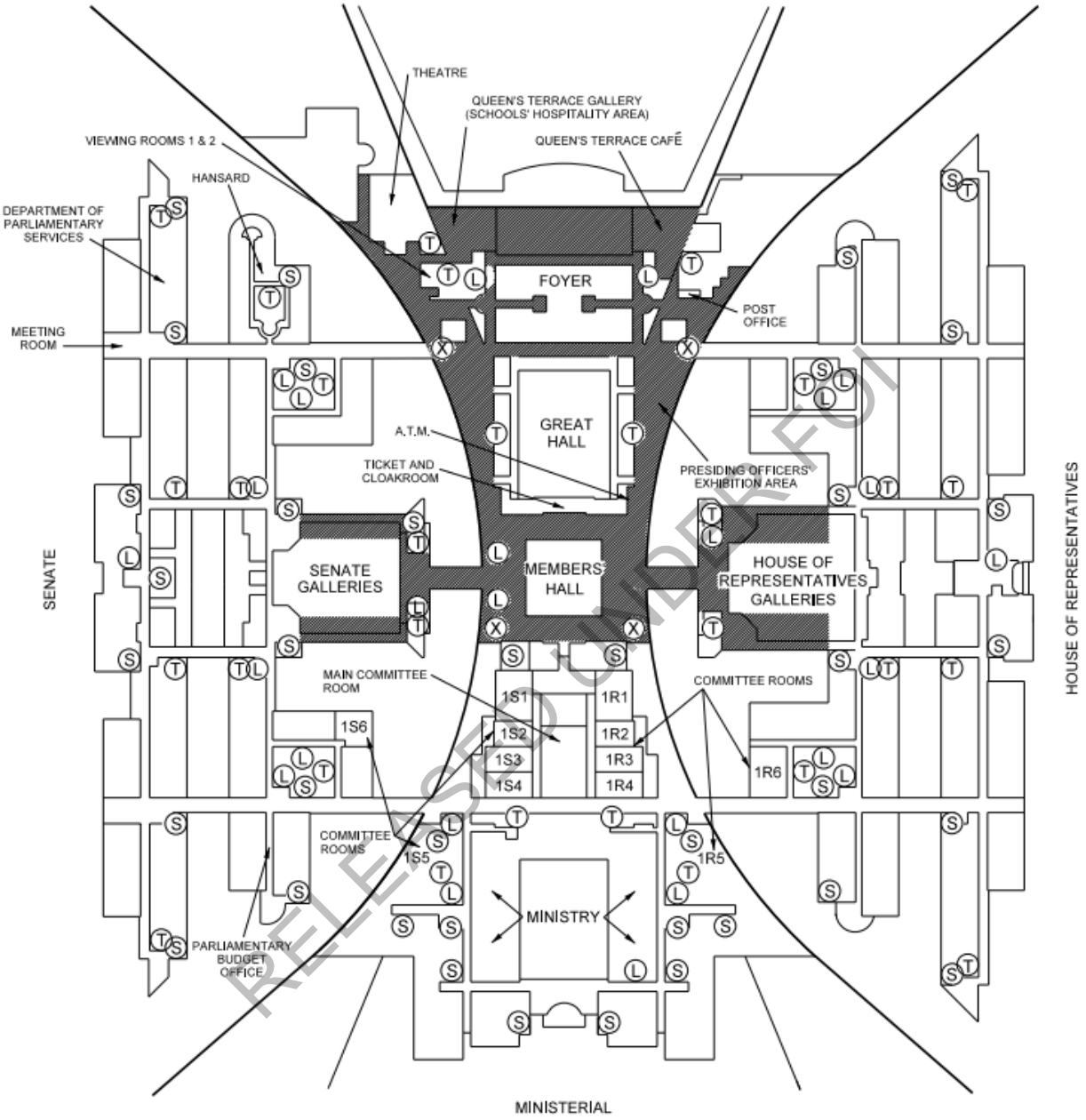
9. If the person's name is not on the list, ***contact the secretariat to ascertain*** if the person should be added to the list. If required, Commonwealth employees will be provided with directions to make their own way to the Committee Room (see attached map). Alternatively they may request to be escorted to the Committee Room by a PSS officer. In these instances there may be a wait of up to 10 minutes whilst a patrol officer is called.

Last minute changes

10. Any last minute changes to committee timings or witness lists outside of business hours should be emailed to pssshiftadminstration@aph.gov.au and senate.hotline@aph.gov.au. In these cases telephone contact should be made with the 24/7 PSS Shift Administrator (0419 402 993) to advise of the changes.

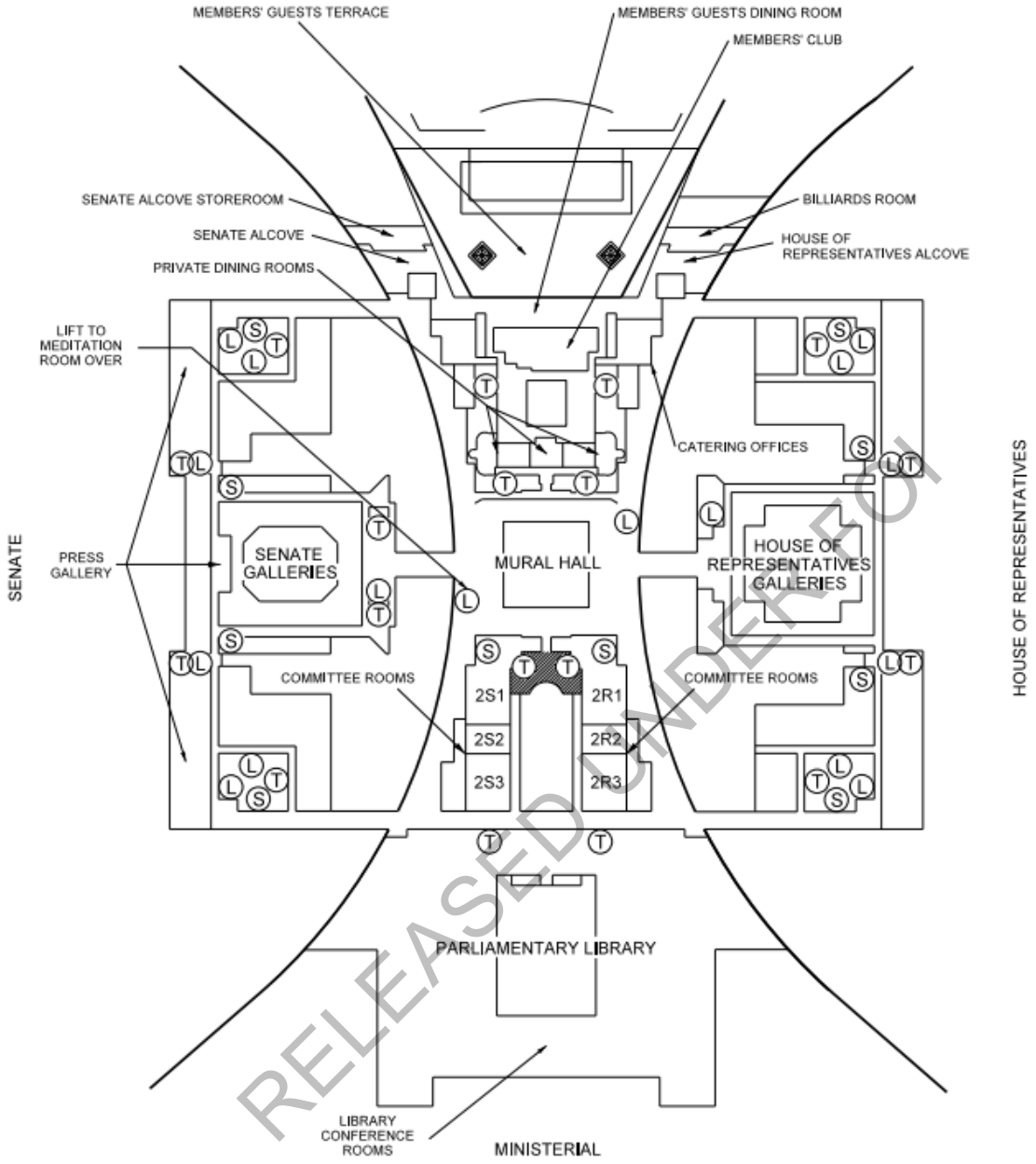
Issues/Problems/Questions

11. The Deputy Usher of the Black Rod is available 24/7 to assist with any issues relating to Public Hearing security and access issues. Contact via mobile **0416 278 708** (if unavailable for any reason then please call the Usher of the Black Rod on 0458 469 889).



KEY TO SYMBOLS

- (L) LIFT
- (S) STAIRS
- (T) TOILET
- (X) PUBLIC/PRIVATE AREA INTERFACE



KEY TO SYMBOLS

Ⓛ LIFT

Ⓢ STAIRS

Ⓣ TOILET

GOVERNMENT GUIDELINES FOR OFFICIAL WITNESSES BEFORE PARLIAMENTARY COMMITTEES AND RELATED MATTERS

Department of the Prime Minister and Cabinet

Canberra

February 2015

GOVERNMENT GUIDELINES FOR OFFICIAL WITNESSES BEFORE PARLIAMENTARY COMMITTEES AND RELATED MATTERS – FEBRUARY 2015

1. INTRODUCTION

1.1. Application and scope of the *Guidelines*

1.1.1. The *Guidelines* are designed to assist departmental and agency officials, statutory office holders and the staff of statutory authorities in their dealings with the parliament. The term 'official' is used throughout the *Guidelines*; it includes all persons employed by the Commonwealth who are undertaking duties within a Commonwealth department or agency (whether employed under the *Public Service Act 1999* or other legislation) and those in government business enterprises, corporations and companies. It is recognised, however, that the role and nature of some statutory office holders and their staff will require the selective application of these *Guidelines*, depending on the individual office holder's particular statutory functions and responsibilities (see section 2.9).

1.1.2. Contractors and consultants to departments and agencies and other individuals who are invited to give evidence to a parliamentary committee will also find these *Guidelines* useful.

1.1.3. While the *Guidelines* apply primarily to the preparation of submissions and the giving of oral evidence, parts 7 to 11 cover certain other matters related to the parliament. The *Guidelines* should also generally apply to submissions to and appearances before other public inquiries, such as royal commissions, and to the preparation and presentation of speeches by officials in their official capacity (for further information on the involvement of APS employees in public information initiatives, see *APS Values and Code of Conduct in Practice: a guide to official conduct for APS employees and agency heads* (section 1: Relationship with the Government and the Parliament), published by the Australian Public Service Commission.

1.2. Powers of the parliament

1.2.1. There are obligations and protections that govern anyone who volunteers or is required to provide information to the parliament. These obligations and protections flow primarily from the Constitution and the *Parliamentary Privileges Act 1987*, supplemented by privilege resolutions adopted by both the Senate and the House of Representatives and by the Standing Orders of both houses. While very rarely called upon, the parliament has the power to impose penalties for contempt (see sections 5.1 and 5.2 on parliamentary privilege and contempt of parliament below).

1.2.2. The *Guidelines* detail obligations and protections, providing references and links to primary documents.

1.3. Accountability

1.3.1. A fundamental element of Australia's system of parliamentary government is the accountability of the executive government to the parliament. Ministers are accountable to the parliament for the exercise of their ministerial authority and are responsible for the public advocacy and defence of government policy. Officials are accountable to ministers for the administration of government policy and programmes. Officials' accountability regularly takes the form of a requirement for them to provide full and accurate information to the parliament about the factual and technical background to policies and their administration.

1.3.2. The most common ways that officials will be required to answer directly to the parliament is through submissions to and appearances before committees. They may also be required to support ministers' accountability by, for example, drafting answers to parliamentary questions, advising a minister during the debate on legislation in the parliament or assisting a minister in responding to an order by one of the houses to produce documents.

1.3.3. The Guidelines are intended to assist in the freest possible flow of information to the parliament.

1.4. Types and powers of committees

1.4.1. Parliamentary committees may be established by the Senate, the House of Representatives, jointly by the two houses or by legislation. They have either an ongoing role (statutory and standing committees) or are established for a specific purpose (select committees).

1.4.2. Appearance as a witness before a Senate legislation committee conducting hearings into the Appropriation Bills (i.e. Senate estimates hearings) is the most common situation in which officials will appear before a parliamentary committee.

1.4.3. The functions and powers of parliamentary committees derive from enabling statutes, resolutions or the standing orders of the houses. Committees are generally established and empowered, among other things, to:

(a) seek submissions and documents and invite persons to give evidence in relation to matters under consideration

(b) summon witnesses and require the production of documents in relation to those matters.

1.4.4. The operations of joint statutory committees are governed by the relevant legislation (e.g. the *Public Accounts and Audit Committee Act 1951*, the *Public Works Committee Act 1969* and the *Australian Security Intelligence Organisation Act 1979*). Select committees are governed by the resolutions which establish them.

1.5. Types of witnesses

1.5.1. Officials can make submissions and appear as witnesses in an official capacity or in a personal capacity. Within these two broad categories there are distinctions that affect the clearance of submissions, selection of witnesses and preparation for appearances before committees. Depending on the nature of the inquiry that the committee is undertaking, the same officials can fall into either or both of these categories.

Official witnesses

1.5.2. Most often, officials will make submissions or appear before committees as representatives of their departments or agencies to explain the administration and implementation of government policies and programmes. For those witnesses, the Guidelines provide details of procedures for the clearance of submissions, choice of witnesses and consultation ahead of committee hearings.

1.5.3. There are circumstances, however, where those procedures would not be appropriate. On occasion witnesses may choose or be required to give personal accounts of events or conduct that they have witnessed. This situation can arise in the course of any committee hearing but will most often arise when a committee is inquiring into a particular event and the accounts of individual witnesses are required to allow the committee to ascertain the facts surrounding the event. In such cases, witnesses must not have requirements placed upon them that might deter them from giving evidence or cause them to feel constrained about the nature or content of their evidence. Part 3 of the *Guidelines* provides information about the approach to be adopted in cases where witnesses have had direct involvement in or have direct knowledge of events under inquiry.

1.5.4. It is, of course, possible that the same person may appear to explain the way that a particular programme is administered and to provide an account of an event that may have occurred in the administration of the programme.

Personal witnesses

1.5.5. Officials may also make submissions and appear as witnesses in a personal capacity. Guidance on contributions by officials appearing in a personal capacity is in Part 6.

2. PRELIMINARIES TO A COMMITTEE INQUIRY

2.1. Requests for written material and attendance

2.1.1. Without providing an exhaustive list, requests for submissions to or for the attendance of an official at a committee hearing in an official capacity may be made to one of the following:

(a) the relevant minister

(b) the relevant departmental secretary or agency head

(c) an official who previously appeared before the committee in relation to the matter being considered

(d) an official who has been identified by a committee as a person who could assist the committee in establishing facts about a particular event

2.1.2. There are exceptions to these formal requests e.g. for Senate estimates committees hearings.

2.1.3. Committees often advertise publicly for written submissions from interested persons and organisations.

2.1.4. A witness may first be invited to give evidence or produce documents, but a committee has the power to summon a witness if it considers circumstances warrant such an order. This is a rare occurrence, however, and departments are requested to bring any cases of an official receiving a summons to the attention of the Department of the Prime Minister and Cabinet (see Part 11 for contacts).

2.2. Preparation of submissions

2.2.1. If appropriate, departments and agencies making formal submissions should provide them in a written form; subsequent oral evidence would, if required, be based on the written submission but could also encompass other matters.

2.3. Matters of policy in submissions

2.3.1. Submissions:

(a) should not advocate, defend or canvass the merits of government policies (including policies of previous Commonwealth governments or state or foreign governments)

(b) may describe those policies and the administrative arrangements and procedures involved in implementing them

(c) should not identify considerations leading to government decisions or possible decisions unless those considerations have already been made public or the minister authorises the department to identify them

(d) may, after consultation with the minister, and especially when the government is encouraging public discussion of issues, set out policy options and list the main advantages and disadvantages, but should not reflect on the merits of any judgement the government may have made on those options or otherwise promote a particular policy viewpoint.

2.4. Clearance of submissions by minister

2.4.1. Submissions should be cleared to appropriate levels within the department or agency, and normally with the minister, in accordance with arrangements approved by the minister concerned.

2.4.2. Where a committee seeks comments on the merits of government policies, it is for ministers to respond by making written submissions, by appearing personally or arranging for ministers representing them to appear personally, or by inviting committees to submit questions on policy issues in writing.

2.4.3. Part 3 provides guidance in relation to officials giving evidence of personal knowledge of or involvement in events. Part 6 covers evidence given in a personal capacity.

2.5. Declining to make a submission

2.5.1. There may be occasions where a department is requested by a committee to make a submission and considers it inappropriate to do so e.g. where the issue being examined is administered by another department. In such cases it would be appropriate for the departmental secretary or agency head, or the official to whom a request was addressed, to write to the committee advising that the department does not intend to make a submission. If a committee persists with its request for a written submission, the department or agency may wish to seek the minister's views.

2.6. Requests for more time to prepare evidence

2.6.1. If the notice is considered insufficient, the minister (or the department on the minister's behalf) may ask a committee for more time to prepare evidence. The Senate resolutions provide for a witness to be given reasonable notice and an indication of the matters expected to be dealt with (Senate resolution 1.3).

2.7. Confidentiality of submissions and draft reports of committees

2.7.1. The release of submissions and the receipt of draft committee reports without the authority of a committee is prohibited by the *Parliamentary Privileges Act 1987* and may be judged as a contempt of the parliament. (See sections 5.1 and 5.2.)

2.7.2. It is sometimes necessary for the executive government to draw on contributions from various departments and agencies in order to provide accurate and comprehensive information. In such cases, draft submissions must be circulated between relevant agencies. The final submission may be made available to contributing departments and agencies at the time the submission is sent to the committee. Once forwarded to a committee, however, written submissions are confidential until the committee authorises their release or publication (see Senate Standing Order 37, House of Representatives Standing Order 242). Material in submissions may be used for other purposes, but the actual submission must not be published without the committee's approval.

2.7.3. Similarly, a draft report of a committee prepared for its own consideration is the property of the committee and must not be received or dealt with except with the committee's authority. If an official receives a draft report, it should be returned promptly to the committee through the committee secretary, either directly or by returning it to the individual who provided it, who should be informed of the requirement to return it.

2.8. Choice of witnesses

2.8.1. A minister may delegate to a departmental secretary or agency head the responsibility for deciding the officials most appropriate to provide the information sought by a committee. It is essential that the officials selected have sufficient knowledge and authority to be able to satisfy the committee's requirements. Where the matter before the committee involves the interests of several departments or agencies, it would be appropriate to inform the committee secretary (after consulting the other departments or agencies) so the committee can arrange for other witnesses to appear if required.

2.8.2. Where a committee specifically requests an official to appear and the official is unavailable or the department considers it more appropriate that another official appear, it is desirable to advise the committee in advance and indicate the reason e.g. that another official or another department is now responsible for the matter in question. That course is likely to be inappropriate if the specified official has direct knowledge of an event under inquiry (see paragraph 1.5.3 and Part 3).

2.9. Official witnesses from statutory authorities

2.9.1. Both Houses regard statutory office holders and the staff of statutory authorities as accountable to the parliament, regardless of the level of ministerial control of the authority. Most of them should comply with the usual rules about canvassing the merits or otherwise of policies. However, a number of statutory office holders and authorities, particularly those

with statutory responsibilities for promoting good practice in particular fields or protecting the interests of individuals or groups, may provide comment to committees on policies relevant to their areas of responsibility to the extent that the functions of their office properly permit that role. In doing so, they should take care to avoid taking partisan positions.

2.10. How to prepare as a witness

2.10.1. All witnesses should be thoroughly prepared for hearings. Preparation should include ensuring familiarity with probable lines of questioning by discussion with the committee secretariat or by examining Hansard (for parliamentary questions and previous, related inquiries) and other sources, including the media. Officials who have not previously attended committee hearings should be briefed on the requirements and should consider training offered by the Australian Public Service Commission and by the Departments of the Senate and the House of Representatives. Senior officials should satisfy themselves, as far as possible, that all witnesses are capable of giving evidence in a professional manner.

2.11. Senate and House of Representative resolutions

2.11.1. All officials appearing before Senate committees should also make themselves aware of the Senate resolutions relating to the rights of witnesses (Senate resolutions 1.1-1.18) and matters which may be treated as a contempt of the Parliament (Senate resolutions 3 and 6.1-6.16). Officials appearing before the House of Representatives Committee of Privileges and Members' Interests should be aware of the resolution adopted by the House on 25 November 2009 in relation to the protection of witnesses.

2.12. Consultation with ministers ahead of hearings

2.12.1. The extent of consultation with ministers when preparing for hearings may vary depending on the committee and capacity in which a witness is appearing. For Senate estimates committee hearings, it is usual for officials to provide the minister, or the minister's representative in the Senate, with a list of significant matters on which the department or agency is likely to be questioned and with copies of briefing if the minister wishes. Regardless of the type of committee, witnesses should alert the minister before a hearing if it is likely that a claim of public interest immunity (PII) will be required (see sections 4.4 to 4.11). In most cases, ministers should also be given advance notice by officials of likely requests for the hearing of evidence in camera (see section 4.12), although official witnesses who will give personal accounts of an event (see Part 3) are under no obligation to indicate that they intend to request an in camera hearing.

3. OFFICIALS GIVING EVIDENCE OF EVENTS OR CONDUCT

3.1.1. Parliamentary committees are occasionally established to inquire into particular events. Officials whose personal accounts of events or conduct are relevant to the inquiry should prepare themselves for the hearing in much the same way as officials appearing in a representative capacity (see section 2.10) by, for example, considering what questions might be asked, reviewing files and contemporaneous notes about the event and attempting to recall their experiences as exactly as possible. While these witnesses may choose to advise the minister or the departmental or agency executive before making a submission or attending a hearing, they should not be required to do so, nor should they be required to clear the content of their submissions or intended evidence.

3.1.2. An official who is appearing in relation to a particular event should, like all official witnesses, be aware that they might need to restrict the evidence they give (see section 4.2). It is possible, for example, that certain information relevant to an inquiry should properly remain confidential (see sections 4.4 to 4.11). In this situation, the official should discuss the proposed evidence with senior officials familiar with the subject matter so as to ascertain whether the minister should be given an opportunity to consider making a PII claim in respect of the information.

3.1.3. Officials giving evidence about particular events are entitled to request that their submissions and oral evidence remain confidential. This may be appropriate if the subject matter of the inquiry or the proposed evidence is inherently confidential (e.g. if it is related to defence capabilities and a PII claim is not being made), if the evidence would be damaging to personal reputations, or if the witness does not wish his or her identity to be made public.

3.1.4. Officials who intend to give evidence about their personal experiences or observations should be careful, if they discuss their intended evidence with other officials or potential witnesses, to avoid creating the perception that they are trying to influence those other witnesses or being influenced by them.

3.1.5. As indicated in paragraph 1.5.4, it is possible for the same official to be required to give evidence to the same inquiry both to explain the way a programme is administered and to provide an account of an event that might have occurred in the administration of the programme. In such cases, the witness needs to follow the appropriate clearance procedures for evidence relating to his or her evidence as a representative of the department or agency, while at the same time avoiding inappropriate processes in preparing to give evidence about his or her personal knowledge of the event or conduct in question.

4. CONDUCT OF HEARINGS BY COMMITTEES

4.1. General Principles

4.1.1. As indicated above (paragraph 1.3.3), it is intended, subject to the application of certain necessary principles, that there be the freest flow of information between the public sector and the parliament. To that end, officials should be open with committees and if unable or unwilling to answer questions or provide information should say so and give reasons. It is also incumbent upon officials to treat parliamentary committee members with respect and courtesy. Officials who consider that a question or statement made by a committee member reflects unfairly on them can seek assistance from either the minister or the committee chair. (See also section 5.7 on Right of Reply.)

4.2. Limitations on officials' evidence

4.2.1. There are three main areas in which officials need to be alert to the possibility that they may not be able to provide committees with all the information sought or may need to request restrictions on the provision of such information. These are:

(a) matters of policy

(b) material that may be the subject of a PII claim

(c) information where in camera evidence is desirable.

4.3. Matters of policy in oral evidence

4.3.1. It is not the role of an official witness to give opinions on matters of policy. It is the role of an official witness to speak to any written submission provided to the committee and to provide, in answer to questions, factual and background material to assist the understanding of the issues involved. The detailed rules applying to written submissions also apply to oral evidence. Not all restrictions necessarily apply to statutory officers (see section 2.9).

4.3.2. The Senate resolutions (see section 2.11) provide that, "an officer of a department of the Commonwealth or of a State shall not be asked to give opinions on matters of policy, and shall be given reasonable opportunity to refer questions asked of the officer to superior officers or to a Minister" (resolution 1.16).

4.3.3. Senate resolutions also prescribe the procedure by which a witness may object to answering "any question put to the witness" on "any ground" (resolution 1.10). This would include the ground that the question requires the witness to give an opinion on a matter of policy contrary to Senate resolution 1.16. In such a situation an official may ask the person chairing the committee to consider whether questions which fall within the parameters of policy positions are in order.

4.3.4. If an official witness is directed to answer a question that goes to the merits of government policy and has not previously cleared the matter with the minister, the official should ask to be allowed to defer the answer until such clearance is obtained. Alternatively, it may be appropriate for the witness to refer to the written material provided to the committee and offer, if the committee wishes, to seek elaboration from the minister or to request that the answer to a particular question be reserved for submission in writing.

4.4. Public interest immunity

4.4.1. While the parliament has the power to require the giving of evidence and the production of documents, it has been acknowledged by the parliament that the government holds some information which, in the public interest, should not be disclosed.

4.5. Claims to be made by ministers

4.5.1. Only ministers, or in limited circumstances statutory office holders, can claim that information should be withheld from disclosure on grounds of PII. However, committees, and especially Senate estimates committees, receive most of their evidence from officials, and it is officials who are most likely in the first instance to be asked to provide information or documents that might be the subject of a PII claim. Officials need in particular to be familiar with the Senate Order of 13 May 2009 on PII claims (see Attachment A).

4.5.2. It is important that the public interest is not inadvertently damaged as a result of information or documents being released without a proper assessment of the possible consequences. Officials who consider that they have been asked to provide information or a document (either by way of a submission or in a hearing) that might properly be the subject of a PII claim should either:

(a) advise the committee of the grounds for that belief and specify the damage that might be done to the public interest if the information or document were disclosed; or

(b) ask to take the question on notice to allow discussion with the minister. A committee would be expected to allow an official or minister at the table to ascertain the portfolio minister's views on the possible release of the information or document or seek further advice on whether a PII claim was warranted.

4.5.3. If a minister concludes that it would not be in the public interest to disclose the information or document, a statement should be provided to the committee setting out the ground for that conclusion and specifying the harm to the public interest that could result from the disclosure of the information or document.

4.5.4. Where practicable, decisions to claim PII should take place before hearings, so that the necessary documentation can be produced at the time. The normal means of claiming PII is by way of a letter from the minister to the committee chair. The Department of the

Prime Minister and Cabinet should be consulted on the appropriateness of the claim in the particular circumstances and the method of making the claim.

4.5.5. Before making a claim of PII, a minister or, in appropriate circumstances, a statutory office holder, might explore with a committee the possibility of providing the information in a form or under conditions which would not give rise to a need for the claim (including in camera, see section 4.12).

4.6. Grounds for a PII claim

4.6.1. There are several generally accepted grounds on which a minister or, in appropriate circumstances, a statutory office holder, may rely when claiming PII. For example, PII claims may be made in relation to information and documents the disclosure of which would, or might reasonably be expected to:

(a) damage Australia's national security, defence or international relations

(b) damage relations between the Commonwealth and the States

(c) disclose the deliberations of Cabinet (other than a decision that has been officially published)

(d) prejudice the investigation of a possible breach of the law or the enforcement of the law in a particular instance

(e) disclose, or enable a person to ascertain, the existence or identity of a confidential source or information, in relation to the enforcement or administration of the law

(f) endanger the life or physical safety of any person

(g) prejudice the fair trial of a person or the impartial adjudication of a particular case

(h) disclose lawful methods or procedures for preventing, detecting, investigating, or dealing with matters arising out of breaches or evasions of the law, the disclosure of which would, or would be reasonably likely to, prejudice the effectiveness of those methods or procedures

(i) prejudice the maintenance or enforcement of lawful methods for the protection of public safety.

4.6.2. The Senate Order of 13 May 2009 made it clear that committees will not accept a claim for public interest immunity based only on the ground that the document in question has not been published, is confidential, or is advice to or internal deliberations of government; a minister must also specify the harm to the public interest that may result from the disclosure of the information or document that has been requested. Further advice on the Senate Order and PII claims is at Attachment A.

4.6.3. If a minister concludes that a PII claim would more appropriately be made by a statutory office holder because of the independence of that office from ministerial direction or control, the minister should inform the committee of that conclusion. A statutory office holder might, for example, consider the disclosure of particular information would be likely to have such a substantial adverse effect on the proper and efficient conduct of the operations of his or her agency that it would be contrary to the public interest to disclose that information.

4.7. Classified documents

4.7.1. Documents, and oral information relating to documents, having a national security classification of 'confidential', 'secret' or 'top secret' would normally be within one of the categories in paragraph 4.6.1, particularly sub-paragraph 4.6.1(a). If, however, a document bearing such a classification is to be provided to a committee, an official should seek declassification of the document in accordance with relevant government policies. (Note that it does not follow that documents without a security classification may not be the subject of a PII claim. Nor does it follow that classified documents may not in any circumstances be produced. Each document should be considered on its merits and, where classified, in consultation with the originator.)

4.8. Legal professional privilege and legal advice

4.8.1. Legal advisers owe a duty to their clients not to disclose the existence or content of any advice. It would therefore be inappropriate for any official who has provided legal advice to government, who has obtained advice from an external lawyer or who possesses legal advice provided to another agency, to disclose that advice. All decisions about disclosure of legal advice reside with the minister or agency who sought and received that advice. The Attorney-General or the Attorney-General's Department must always be consulted about disclosure of constitutional, international and national security legal advice.

4.8.2. If asked by a committee, it will generally be appropriate for an official to disclose whether legal advice had been sought and obtained on a particular issue and, if asked, who provided the advice and when it was provided, unless there are compelling reasons to keep that information confidential. Where an official has been asked a question about the content of legal advice, it may be appropriate to advise the committee that such information might properly be subject to a public interest immunity claim and refer the question of disclosure to the responsible minister as outlined in paragraph 4.5.2.

4.8.3. While it has not been the practice for the government's legal advisers to provide advice to parliamentary committees, situations may arise during a hearing where a committee asks an official a question which amounts, in effect, to a request for legal advice. Officials should provide committees with such information as they consider appropriate, consistent with the general understanding that the Government's legal advisers do not provide or disclose legal advice to the parliament, and consistent more generally with these Guidelines.

(It may be, for example, that officials are in a position to explain in general terms the intended operation of provisions of Acts or legal processes, particularly where this reflects the settled government view on the matter.)

4.9. Freedom of information (FOI) legislation

4.9.1. The *Freedom of Information Act 1982* (FOI Act) establishes minimum standards of disclosure of documents held by the Commonwealth. The FOI Act has no application as such to parliamentary inquiries, but it may be considered a general guide to the grounds on which a parliamentary inquiry may reasonably be asked not to press for particular information. The converse also applies. Any material which would be, or has been, released under the FOI Act should (with the knowledge of the minister in sensitive cases or where the minister has a particular interest or has been involved) be produced or given to a parliamentary committee, on request. However, officials should bear in mind that, because of the Executive's primary accountability to the parliament, the public interest in providing information to a parliamentary inquiry may be greater than the public interest in releasing information under the FOI Act. In addition, the ability to provide information and documents to the parliament on a confidential basis might provide scope to release information that would not be appropriate for release under the FOI Act (see section 4.12). For a more detailed understanding of the exemption provisions, refer to the FOI Act and separate guidelines on its operation issued by the Australian Information Commissioner and the FOI Guidance Notes issued by PM&C (references and links to these documents are in Part 12).

4.10. Commercial-in-confidence material

4.10.1. There is no general basis to refuse disclosure of commercial information to the parliament, even if it has been marked 'commercial-in-confidence'. The appropriate balance between the interests of accountability (i.e. the public interest in disclosing the information) and appropriate protection of commercial interests (i.e. the public interest in the information remaining confidential) should be assessed in each case.

4.10.2. A Senate order, adopted on 30 October 2003, states that, 'the Senate and Senate committees shall not entertain any claim to withhold information from the Senate or a committee on the grounds that it is commercial-in-confidence, unless the claim is made by a minister and is accompanied by a statement setting out the basis for the claim, including a statement of any commercial harm that may result from the disclosure of the information.'

4.10.3. As a general guide, it is inappropriate to disclose information which could disadvantage a contractor and advantage competitors in their business operations. Further information about the circumstances in which a PII claim based on commercial-in-confidence information might legitimately be made, and about information that would normally be disclosed, is at Attachment B.

4.10.4. A department or agency receiving commercial information on the basis of undertakings of confidentiality does not automatically preclude release of that information to

the parliament. Agencies should consider where, on balance, the public interest lies as part of their advice to the minister and may wish to seek the views of any person or organisation to whom undertakings were given about the possible release of the document.

4.10.5. In most cases, the sensitivity of commercial-in-confidence material diminishes with time and this should be taken into account when assessing the public interest balance.

4.10.6. As with any other PII claim, a claim around commercial-in-confidence information should be supported by reference to the particular detriment that could flow from release of the information.

4.11. Secrecy provisions in legislation

4.11.1. Some Commonwealth legislation contains secrecy provisions that protect certain information from disclosure except to specified persons or in specified situations. Examples include s.37(1) of the *Inspector-General of Taxation Act 2003*, which protects information relating to a taxpayer's affairs; s.86-2 of the *Aged Care Act 1997* which protects information obtained under or for the purposes of that Act; and s.187(1) of the *Gene Technology Act 2000* which limits the provision of commercial-in-confidence information.

4.11.2. The existence of secrecy provisions in legislation does not provide an automatic exemption from providing information to the parliament unless it is clear from the provision that a restriction has been placed on providing information to a committee or a House of the parliament (section 37 of the *Auditor-General Act 1997* is an example). The fact that the parliament has included secrecy provisions in legislation suggests, however, that an official may be able to put to a committee a satisfactory case for not providing requested information, at least in public hearings. If the official's case is not accepted by the committee and the official remains concerned about providing the information, it would be open to the responsible minister to make a PII claim in the manner outlined in sections 4.4 to 4.10.

4.11.3. In some instances it might be possible to meet a committee's request by removing information that identifies individuals.

4.11.4. Officials may wish to seek legal advice when a request for information covered by secrecy provisions is pressed by a committee.

4.12. In camera evidence

4.12.1. Witnesses may seek a committee's agreement to give evidence in a private session (i.e. in camera). Senate estimates committees, however, must conduct hearings in public.

4.12.2. It would be unusual for an official witness to seek to give evidence in camera, but it may be necessary in situations where:

(a) a case could be made for a PII claim but the minister considers, on balance, that the public interest lies in making information available to the committee;

(b) similar or identical evidence has previously been given in camera to other hearings of the committee or other committees of the parliament and has not been made public.

4.12.3. Requests for an in camera hearing would normally be made by the minister or by a witness after consultation with the minister and departmental secretary or agency head. Such consultation might not be appropriate, however, in the case of officials giving evidence of events or conduct, as described in Part 3.

4.12.4. It is important to be aware that committees (or the Senate or House of Representatives) are able to decide that evidence taken in camera or provided in confidential submissions should be published. Committees would usually inform a witness before publication, and possibly seek concurrence, but there is no requirement for that to occur.

4.12.5. If a committee seeks an official witness's concurrence to publish in camera evidence, the witness should ask the committee for time to allow him or her to consult the minister or the departmental secretary or agency head (noting that this may not be necessary if the witness is appearing in a personal capacity – see Part 6).

4.13. Requests for evidence 'off the record'

4.13.1. There is no category of 'off the record' provision of information to a committee and officials should not offer to brief committees or members in this way. In the event that an official is asked to provide information to members of a committee 'off the record' or in any manner that would not appear to be covered by parliamentary privilege, the official should request a postponement until the minister can be consulted, unless the possibility has been clearly foreshadowed with the minister and the official has been authorised to provide the information.

4.13.2. Some committees, such as the Joint Committee on Public Accounts and Audit, frequently hold relatively informal, or roundtable, committee hearings. These hearings are usually recorded by Hansard and are in all cases covered by parliamentary privilege.

4.14. Qualifying evidence

4.14.1. During hearings, committees may seek information which could properly be given, but where officials are unsure of the facts or do not have the information to hand. In such cases, witnesses, if they choose not to take the question on notice, should qualify their answers as necessary so as to avoid misleading the committee and, if appropriate, undertake to provide additional or clarifying information. It is particularly important to submit such further material promptly.

4.15. Taking questions on notice

4.15.1. While it is appropriate to take questions on notice if the information sought is not available or incomplete, officials should not take questions on notice as a way of avoiding further questions during the hearing. If officials have the information, but consider it necessary to consult the minister before providing it, they should state that as a reason for not answering rather than creating the impression that the information is not available.

4.16. Written questions and questions taken on notice

4.16.1. Where a committee asks written questions, written replies should be provided through the committee secretary. It is common practice at Senate estimates committee hearings for questions to be taken on notice. Responses should be provided promptly to the minister for clearance so that answers can be lodged with the committee by its deadline. Where answers cannot be provided by the deadline, the committee should be advised when responses are expected to be available.

4.16.2. When the interests of several departments are involved, adequate consultation should take place in preparing material.

4.17. Questions about other departments' responsibilities

4.17.1. It is important that witnesses take care not to intrude on responsibilities of other departments and agencies (see also paragraph 2.7.2). Where a question falls within the administration of another department or agency, an official may request that it be directed to that department or agency or be deferred until that department or agency is consulted.

5. PROTECTION OF SUBMISSIONS AND WITNESSES

5.1. Parliamentary privilege

5.1.1. The act of submitting a document to a parliamentary committee is protected by parliamentary privilege (subsection 16(2)(b) of the *Parliamentary Privileges Act 1987*). Any publication of the submission other than to the committee, however, is protected by parliamentary privilege only if that publication takes place by or pursuant to the order of the committee, in which case the content of the document is also protected (subsection 16(2)(d) of the Act). The unauthorised disclosure of a document or evidence submitted to a parliamentary committee (that is, a disclosure not authorised by the committee or the House concerned) may be treated as a criminal offence under section 13 of the Act or as a contempt (Senate resolution 6.16.). (See also section 2.7.)

5.1.2. The protection of parliamentary privilege means that a person cannot be sued or prosecuted in respect of the act or the material protected, nor can that act or material be used against a person in legal proceedings.

5.2. Contempt of the parliament

5.2.1. Officials need to be aware that the *Parliamentary Privileges Act 1987* and Senate Resolutions have defined offences against a House. Each House has the power to declare an act to be a contempt of the House and to punish such an act.

5.2.2. The *Parliamentary Privileges Act 1987* creates the following offences in relation to attempts to improperly influence a person about evidence given or to be given:

(a) a person shall not, by fraud, intimidation, force or threat, by the offer or promise of any inducement or benefit, or by other improper means, influence another person in respect of any evidence given or to be given before a House or a committee, or induce another person to refrain from giving any such evidence (subsection 12(1));

(b) a person shall not inflict any penalty or injury upon any person, or deprive any person of any benefit, on account of the giving or proposed giving of any evidence, or any evidence given or to be given, before a House or a committee (subsection 12(2)).

5.2.3. As indicated in paragraph 5.1.1 above, section 13 of the *Parliamentary Privileges Act 1987* creates an offence in relation to the disclosure of submissions or evidence without the authority of the parliament or a committee.

5.2.4. The giving of any evidence that a witness knows to be false or misleading is also a contempt (see Senate resolution 6(12)).

5.3. Self incrimination

5.3.1. In general, a witness cannot refuse to answer a question or produce documents on the ground that the answer to the question or the production of documents might incriminate the witness. The exceptions to this are witnesses appearing before the Joint Committee of Public Accounts and Audit or the Parliamentary Standing Committee on Public Works, who are permitted to refuse to give evidence on grounds on which a witness in court is able, including self incrimination.

5.3.2. If concerned about self incrimination, a witness may request that the committee take the evidence in camera (see section 4.12).

5.4. Access to counsel

5.4.1. A witness may apply to have assistance from counsel in the course of a hearing. In considering such an application, a committee shall have regard to the need for the witness to be accompanied by counsel to ensure the proper protection of the witness. If an application is not granted, the witness shall be notified of reasons for that decision (see Senate resolution 1.14). If an application is granted, the witness shall be given reasonable opportunity to consult counsel during a committee hearing (see Senate resolution 1.15 and p 693 of *House of Representatives Practice* – references and links in Part 12).

5.4.2. In normal circumstances officials should not need counsel when appearing before parliamentary committees. Should the need arise, however, the Attorney-General's Department should be consulted.

5.5. Publication of evidence

5.5.1. Evidence provided to committees in a public hearing is normally published in the form of a Hansard record.

5.5.2. Authority for the publication of evidence is vested in committees by virtue of ss.2(2) of the *Parliamentary Papers Act 1908*. Evidence taken in camera is confidential and its publication without a committee's consent constitutes a contempt (see s.13 of the *Parliamentary Privileges Act 1987* and Senate resolution 6.16.).

5.6. Correction or clarification of evidence

5.6.1. Witnesses will receive transcripts of their evidence in the days following their appearance. The transcript should be examined promptly to establish whether any evidence needs to be corrected or clarified. On occasions, a witness may become aware of the need for correction or clarification before the receipt of the transcript or, in the case of a written submission, before the commencement of hearings.

5.6.2. Once the need to provide a committee with revised information has been established, it is most important that the committee receive that revised information at the earliest

opportunity. In the case of officials who made submissions or appeared as witnesses in relation to the administration and implementation of government policy (but not necessarily those covered by Part 3), the departmental secretary or agency head (or senior official who represented the secretary at the hearing) should be informed that revised information is to be provided. Depending on the nature of the correction, it may also be appropriate to inform the minister. Officials need to keep in mind that, while their evidence remains uncorrected or unclarified they are vulnerable to allegations that they have misled a committee.

5.6.3. Supplementary information for a committee should be forwarded to the committee secretary. If uncertain of the most appropriate way to provide a committee with additional or corrected information, officials should seek the guidance of the committee secretary.

5.7. Right of reply

5.7.1. Where evidence taken by a committee reflects adversely on an official, the committee shall provide reasonable opportunity for the official to have access to that evidence and to respond to that evidence by written submission and appearance before the committee (Senate resolution 1(13)).

5.7.2. Officials have the same right as other citizens who have been adversely referred to in a House of the parliament (see Senate resolution 5 and House of Representatives resolution adopted on 27 August 1997 – pp 774-6 of *House of Representatives Practice*). They may make a submission to the President of the Senate or to the Speaker of the House of Representatives requesting that a response be published, and the relevant presiding officer may refer such a submission to the relevant Privileges Committee. The procedures of each House then provide for scrutiny of the submission and for the possibility of it being incorporated in Hansard or ordered to be published.

5.7.3. Officials proposing to exercise their right of reply should inform their departmental secretary or agency head.

6. APPEARANCE IN A PERSONAL CAPACITY

6.1.1. Nothing in these guidelines prevents officials from making submissions or appearing before parliamentary committees in their personal capacity, and the *Parliamentary Privileges Act 1987* makes it clear that an agency has no power to prevent an official from doing so. An official proposing to give evidence in a personal capacity should consult the *APS Values and Code of Conduct in Practice: a guide to official conduct for APS employees and agency heads* (section 1: Relationship with the Government and the Parliament), published by the Australian Public Service Commission. Individual agencies may also have developed advice for their own staff on these matters.

6.1.2. An official giving evidence in a personal capacity might do so in relation to matters entirely unrelated to his or her current or recent responsibilities e.g. an official in the Attorney-General's Department putting forward personal observations or suggestions on aged care accommodation. It would be a matter completely for that official to decide whether to inform either a senior official in his or her own department or anyone in the department responsible for aged care policy. The official should, of course, seek leave to attend the hearing, if necessary.

6.1.3. There is no intention for there to be any restriction arising from these Guidelines on officials appearing before parliamentary committees in their 'personal' capacity. An official so called, however, should pay heed to the guidelines relating to public comment contained in the *APS Values and Code of Conduct in Practice*. As those guidelines emphasise, it is particularly important for senior officials to give careful consideration to the impact, by virtue of their positions, of any comment they might make. Indeed heads of agencies and other very senior officials need to consider carefully whether, in particular cases, it is possible for them realistically to claim to appear in a 'personal' rather than an 'official' capacity, particularly if they are likely to be asked to comment on matters which fall within or impinge on their area of responsibility. An official who is appearing before a committee in a personal capacity should make it clear to the committee that the officer's appearance is not in an official capacity.

6.1.4. An official contemplating giving evidence in a personal capacity in these circumstances might consider discussing his or her intentions with the departmental executive or agency head or other senior officials, as the views that he or she wishes to put forward might be covered in the agency's submission or the evidence of official witnesses. There is, however, no obligation on the official to do so.

6.1.5. An official who gives evidence in his or her personal capacity is protected by parliamentary privilege and must not be penalised for giving that evidence (see section 5.1).

7. PARTY COMMITTEES

7.1. General issues

7.1.1. Officials may be invited to attend party committees, both government and non-government to, for instance, explain proposed legislation.

7.1.2. Requests for briefing from any party committee should be directed to the minister concerned. It is also open to a minister to initiate proposals for briefing of committees where the minister considers that to be desirable.

7.1.3. Officials will not be expected or authorised to express opinions on matters of a policy or party political nature.

7.1.4. Unlike committees of the parliament, party committees do not have the powers or privileges of parliamentary committees, so officials appearing before them do not have the protection afforded to witnesses appearing before parliamentary committees. Party committee hearings are generally held in private.

7.1.5. Where the minister does not attend the committee proceedings, officials should keep the minister informed of the nature of the discussions and of any matters the officials could not resolve to the committee's satisfaction.

8. REQUESTS FOR INFORMATION FROM NON-GOVERNMENT PARTIES AND MEMBERS OF PARLIAMENT

8.1. Rules at times other than during the caretaker period

8.1.1. Requests for information from members of parliament are usually made to the minister, but direct approaches to officials for routine factual information, particularly on constituency matters, are also traditional and appropriate.

8.1.2. Depending on the nature or significance of a request, an official may judge it appropriate to inform the minister and departmental secretary or agency head of the request and response. Ministers should be informed of any matter which is likely to involve them.

8.1.3. A request should also be referred to the minister if it seeks an expression of opinion on government policy or alternative policies, or would raise other issues of a sensitive nature, or where answering would necessitate the use of substantial resources of the department or agency.

8.1.4. When a request is for readily available factual information, the information should be provided.

8.1.5. Care should be taken to avoid unlawful disclosure of information, for example, unauthorised disclosure of information that is classified or otherwise confidential information such as where a breach of personal privacy or commercial confidentiality could be involved.

8.2. Requests from shadow ministers

8.2.1. Requests from shadow ministers for briefing by officials would normally be made through the appropriate minister and, where this is not the case, the minister should be informed. If the minister agrees to the briefing, it would be normal for him or her to set conditions on the briefing, such as the officials to attend, matters to be covered and whether a ministerial adviser should also be present. These conditions are matters for negotiation between the minister and shadow minister or their offices.

8.2.2. With regard to the substance of such a briefing, officials will not be authorised to discuss advice given to government, such as in Cabinet documents, or the rationale for government policies, or to give opinions on matters of a party political nature. Officials should limit discussions to administrative and operational matters and observe the general restrictions relating to classified or PII material. If these latter matters arise, officials should suggest that they be raised with the minister.

8.2.3. Where a ministerial adviser is not present, it would be usual for officials to advise the minister of the nature of matters discussed with the shadow minister.

8.3. Special rules for pre-election consultation with officials during the caretaker period prior to an election

8.3.1. On 5 June 1987 the government tabled in the parliament specific guidelines relating to consultation by the Opposition with officials during the pre-election period. These guidelines, which are almost identical to the guidelines first tabled on 9 December 1976, are as follows:

(a) The pre-election period is to date from three months prior to the expiry of the House of Representatives or the date of announcement of the House of Representatives election, whichever date comes first. It does not apply in respect of Senate only elections.

(b) Under the special arrangement, shadow ministers may be given approval to have discussions with appropriate officials of government departments. Party leaders may have other members of parliament or their staff members present. A departmental secretary may have other officials present.

(c) The procedure will be initiated by the relevant Opposition spokesperson making a request of the minister concerned, who is to notify the Prime Minister of the request and whether it has been agreed.

(d) The discussions will be at the initiative of the non-government parties, not officials. Officials will inform their ministers when the discussions are taking place.

(e) Officials will not be authorised to discuss government policies or to give opinions on matters of a party political nature. The subject matter of the discussions would relate to the machinery of government and administration. The discussions may include the administrative and technical practicalities and procedures involved in implementation of policies proposed by the non-government parties. If the Opposition representatives raise matters which, in the judgement of the officials, call for comment on government policies or expressions of opinion on alternative policies, the officials should suggest that the matter be raised with the minister.

(f) The detailed substance of the discussions will be confidential but ministers will be entitled to seek from officials general information on whether the discussions kept within the agreed purposes.

9. APPEARANCES BEFORE THE BAR OF A HOUSE OF PARLIAMENT

9.1.1. Only in exceptional circumstances would an official be summoned to the bar of a House of the parliament and each case would need individual consideration.

9.1.2. As a general rule, it would be appropriate for these guidelines to be followed insofar as they apply to the particular circumstances.

10. REQUESTS RELATING TO INQUIRIES OF STATE AND TERRITORY PARLIAMENTS

10.1.1. Commonwealth officials may receive a request to appear before or make a submission to a state or territory parliamentary inquiry. In considering the appropriate response, officials should be aware that it would be rare for Commonwealth officials to participate in such inquiries.

10.1.2. However, there may be cases where, after consulting the minister about the request, it is considered to be in the Commonwealth's interests to participate. Officials should not participate in any state or territory parliamentary inquiry without consulting the minister.

10.1.3. Where additional guidance is required regarding appearances before state or territory inquiries or if an official is summoned to appear at such an inquiry, advice should be sought from the Department of the Prime Minister and Cabinet, the Attorney-General's Department, and the Australian Government Solicitor or the agency's legal service provider[1].

[1] Use of a legal service provider must be consistent with the Legal Service Directions issued by the Attorney-General under the *Judiciary Act 1903*.

11. USEFUL CONTACT NUMBERS

11.1.1. The following contact numbers are provided for use where these guidelines suggest consultation with the Department of the Prime Minister and Cabinet, the Attorney-General's Department or the Australian Government Solicitor:

(a) Department of the Prime Minister and Cabinet:

Assistant Secretary Parliamentary and Government Branch	phone: (02) 6271 5400
First Assistant Secretary Government Division	phone: (02) 6271 5786

(b) Attorney-General's Department:

General Counsel (Constitutional) Office of Constitutional Law	phone: (02) 6250 3650 OCL@ag.gov.au

(c) Australian Government Solicitor:

Australian Government Solicitor	phone: (02) 6253 7000
Office of General Counsel	phone: (02) 6253 7074

12. REFERENCES

12.1.1. The following material is available to assist officials in their contact with parliament:

(a) Odgers' *Australian Senate Practice*, 13th Edition, Canberra, 2012.

(b) *House of Representatives Practice*, Sixth Edition, Canberra, 2012.

(c) *Procedures to be observed by Senate Committees for the Protection of Witnesses*. Department of the Senate.

(d) *Procedures for the protection of witnesses before the Committee of Privileges and Members' Interests*. Resolution adopted by the House of Representatives on 25 November 2009.

(e) *Standing Orders and other orders of the Senate*, July 2014.

(f) *House of Representatives Standing and Sessional Orders* (and Resolutions) as at 14 November 2013.

(g) *Appearing Before Parliamentary Committees*, Legal Practice Briefing No. 29, 1996, Australian Government Solicitor.

(h) *How to make a submission to a Senate or Joint Committee inquiry*. Department of the Senate.

(i) *Preparing a submission to a Parliamentary Committee Inquiry*. Department of the House of Representatives, 2011.

(j) *Notes for the Guidance of Witnesses Appearing before Senate Committees*. Department of the Senate.

(k) *Appearing as a witness at a Parliamentary committee hearing*. Department of the House of Representatives, 2011.

(l) *Outline of the Inquiry Process*. Department of the House of Representatives, 2011.

(m) *Parliamentary Privileges Act 1987*

(n) *Public Accounts and Audit Committee Act 1951*

(o) *Public Works Committee Act 1969*

(p) *APS Values and Code of Conduct in practice*. Australian Public Service Commission, 2009.

(q) Reports of the Senate Committee of Privileges, including the Committee of Privileges *1966-96 History, Practice and Procedures (76th Report)*.

(r) Reports of the House of Representatives Committee of Privileges and Members' Interests.

(s) Guidelines on exemption provisions of the *Freedom of Information Act 1982*. Australian Information Commissioner 2011.

(t) FOI Guidance Notes. Department of the Prime Minister and Cabinet, July 2011.

ATTACHMENT A

Claims of public interest immunity

See also sections 4.4 to 4.11 in the *Guidelines*

On 13 May 2009, the Senate passed an Order setting out the process for making claims of public interest immunity (PII) in committee proceedings. A copy of the order is attached (Attachment A1).

2. The Senate Procedure Committee reviewed the operation of the Order in August 2009. A copy of the Procedure Committee's report can be downloaded from the Parliament of Australia website.

3. Officials who are expected to appear at estimates and other parliamentary committee hearings need to be familiar with the requirements of the Order and the grounds for claiming public interest immunity as set out in the Guidelines.

4. The process for claiming public interest immunity described in the Order is largely consistent with the process that is set out in sections 4.4 to 4.11. While the Guidelines explain the process for making public interest immunity claims to protect against the disclosure of information or documents at committee hearings, it has been relatively uncommon in practice for officials appearing as witnesses at committee hearings, particularly estimates hearings, to be asked to provide copies, for example of departmental briefs to ministers. The Order of 13 May 2009 makes it seem more likely that officials and ministers will be asked to provide information or documents of this kind at Senate committee hearings, including estimates hearings, than has been the case in the past.

Summary of advice

5. It is important that the public interest is not inadvertently damaged as a result of information or documents being released without a proper assessment of the possible consequences. Accordingly, if an official is asked to provide information or documents to a Senate committee:

- if the official is satisfied that its disclosure would not harm the public interest, he or she should advise the minister that the material can be provided;
- if the official is satisfied that the disclosure of the material would damage the public interest, he or she should advise the committee that the material cannot be provided and explain how its disclosure would damage the public interest; and
- if the official is uncertain whether the disclosure of the material would damage the public interest, he or she should take the question on notice.

The grounds for claiming public interest immunity and the process for making such a claim at estimates hearings are set out below.

Grounds for a public interest immunity claim

6. While the parliament has the power to require the production of documents, it is acknowledged that the Government holds some information the disclosure of which would be contrary to the public interest. Where the public interest in the information remaining confidential outweighs the public interest in its disclosure, the Government would normally make a public interest immunity claim.

7. There are several recognised and accepted grounds on which ministers may rely when claiming public interest immunity in relation to information or documents requested by the Senate or a Senate committee. These are set out at section 4.6 of the Guidelines. As the Procedure Committee notes in its report, however, it is conceivable that new grounds could arise.

8. By way of example, public interest immunity claims may be made in relation to information or documents whose disclosure would, or might reasonably be expected to:

- damage Australia's national security, defence or international relations;
- damage relations between the Commonwealth and the States;
- disclose the deliberations of Cabinet; and
- prejudice the investigation of a criminal offence, disclose the identity of a confidential source or methods of preventing, detecting or investigating breaches of the law, prejudice a fair trial or endanger the life or safety of any person.

9. It is, of course, possible for more than one ground to apply to the same document, in which case all relevant grounds should be specified.

Public interest conditional exemption – deliberative processes

10. A public interest immunity claim may also be made in relation to material disclosing matters in the nature of, or relating to, opinion, advice or recommendation obtained, prepared or recorded, or consultation or deliberation that has taken place in the course of, or for the purpose of, the deliberative processes involved in the functions of the Government *where disclosure at that time would, on balance, be contrary to the public interest* [emphasis added – see paragraph 4.6.2 of the Guidelines]. Because the Senate Order requires ministers to specify the harm that could result from disclosure of information or a document of this kind, claims for public interest immunity on this ground will involve a greater degree of judgment and subjectivity, and may therefore be less readily accepted, than claims based on the various grounds described in paragraph 8 above.

11. Information and documents whose disclosure would not damage the public interest should be provided to parliamentary committees as soon as possible. It is important, however, that officials and ministers do not inadvertently damage the public interest by disclosing information that ought to remain confidential. Officials and ministers therefore need to consider carefully whether particular documents should be the subject of a public interest immunity claim before they are released. This will frequently not be possible in the relatively short timeframe available for estimates hearings, particularly as the responsible minister and

relevant officials may need to devote their time to the hearings. If the request relates to a small number of documents, it may be possible to respond before the committee completes its hearings. If a large number of documents have been sought, or if the issues involved are complex, the minister may need to advise the committee that it will not be possible to respond until a later date (although it may be possible to provide some documents, or parts of some documents, while the committee is sitting).

12. In briefing ministers on the question whether it is appropriate to disclose information or documents to a committee, officials must assess and balance the public interest in disclosure of the information or document against the public interest, if any, in maintaining its confidentiality. This is a similar process to that which is undertaken when officials provide advice to ministers in relation to a Senate order to produce documents, or in deciding whether to provide access to documents under section 47C of the *Freedom of Information Act 1982* (although it should be noted that the provisions of the FOI Act have no direct application to questions about the provision of information to a Senate committee), or in response to an order to discover documents that are relevant to litigation involving the Commonwealth.

13. It may also be appropriate to decline to provide information or documents if to do so would unreasonably disclose personal information or disclose material that could be the subject of a claim for legal professional privilege.

Process for claiming public interest immunity

14. Public interest immunity claims must be made by ministers. However, Senate committees, particularly estimates committees, receive most of their evidence from officials, and it is they who are most likely in the first instance to be asked to provide information or documents that might be the subject of a public interest immunity claim.

15. The Senate Order describes in some detail the process leading up to a claim for public interest immunity. An official who considers that he or she has been asked to provide information or a document that might properly be the subject of a public interest immunity claim could either:

- advise the committee of the ground for that belief and specify the damage that might be done to the public interest if the information or document were disclosed (paragraph 1 of the Order); or

- take the question on notice.

The official could also refer the question to the minister at the table, but it is unlikely that the minister would be well-placed to make a considered decision on the question at that time.

16. The public interest in not disclosing information or documents on any of the grounds described in paragraph 8 above is self-evident and in many cases the need for such a claim would be readily apparent to officials at the hearing. If it is not, the official should ask if the question can be taken on notice so that it can be properly considered and the minister briefed.

17. It would be reasonable to expect that an official's evidence that a document is a Cabinet document or that, in his or her view, disclosure of the information or document in question might damage Australia's national security, for example, would be accepted by individual senators and committees with the result that the matter would not be taken further.

18. If that is not the case, however, the committee or the senator may request the official to refer the matter to the responsible minister (paragraph 2 of the Order). This would frequently mean that the question would need to be taken on notice. It is possible that the minister at the table, if he or she is not the relevant portfolio minister, may wish to ascertain the portfolio minister's views on the possible release of the information or document.

19. If the minister concludes that it would not be in the public interest to disclose the information or document, he or she "shall provide to the committee a statement of the ground for that conclusion, specifying the harm to the public interest that could result from the disclosure of the information or document" (paragraph 3 of the Order).

20. Paragraph 4 of the Order is not relevant for the purposes of estimates committees, which cannot take evidence in camera, but needs to be considered in the context of other committee hearings.

21. If a committee considers that a minister's statement in support of a public interest immunity claim does not justify the withholding of the information or document, it can report the matter to the Senate (paragraph 5 of the Order). In that event, the Senate would probably consider whether to order that the documents be produced. If the committee decides not to report the matter to the Senate, the senator who sought the information or document may do so (paragraph 6 of the Order).

22. In recent years, officials and ministers have not normally been pressed for copies of deliberative documents, particularly during Estimates hearings, with questions being limited to whether ministers have been briefed on particular issues and, if so, when that occurred. Paragraph 7 of the Order makes it clear, however, that committees will not accept a claim for public interest immunity based only on the ground that the document in question is a deliberative document: a minister must also specify the harm to the public interest that may result from the disclosure of the information or document that has been requested. Again, the need to give careful consideration to the issues involved will frequently mean that the matter has to be taken on notice.

23. Finally, the Order recognises that there may be occasions when it would be more appropriate for the head of an agency, rather than the minister, to make a claim for public interest immunity (paragraph 8 of the Order). This might occur, for example, in relation to information or documents held by agencies that have a significant degree of independence from Government, such as law enforcement agencies, courts and tribunals, the Auditor-General, Commonwealth Ombudsman and some regulatory agencies.

Order of the Senate, 13 May 2009

Public interest immunity claims

That the Senate—

(a) notes that ministers and officers have continued to refuse to provide information to Senate committees without properly raising claims of public interest immunity as required by past resolutions of the Senate;

(b) reaffirms the principles of past resolutions of the Senate by this order, to provide ministers and officers with guidance as to the proper process for raising public interest immunity claims and to consolidate those past resolutions of the Senate;

(c) orders that the following operate as an order of continuing effect:

(1) If:

(a) a Senate committee, or a senator in the course of proceedings of a committee, requests information or a document from a Commonwealth department or agency; and

(b) an officer of the department or agency to whom the request is directed believes that it may not be in the public interest to disclose the information or document to the committee,

the officer shall state to the committee the ground on which the officer believes that it may not be in the public interest to disclose the information or document to the committee, and specify the harm to the public interest that could result from the disclosure of the information or document.

(2) If, after receiving the officer's statement under paragraph (1), the committee or the senator requests the officer to refer the question of the disclosure of the information or document to a responsible minister, the officer shall refer that question to the minister.

(3) If a minister, on a reference by an officer under paragraph (2), concludes that it would not be in the public interest to disclose the information or document to the committee, the minister shall provide to the committee a statement of the ground for that conclusion, specifying the harm to the public interest that could result from the disclosure of the information or document.

(4) A minister, in a statement under paragraph (3), shall indicate whether the harm to the public interest that could result from the disclosure of the information or document to the committee could result only from the publication of the information or document by the committee, or could result, equally or in part, from the disclosure of the information or document to the committee as in camera evidence.

(5) If, after considering a statement by a minister provided under paragraph (3), the committee concludes that the statement does not sufficiently justify the withholding of the information or document from the committee, the committee shall report the matter to the Senate.

(6) A decision by a committee not to report a matter to the Senate under paragraph (5) does not prevent a senator from raising the matter in the Senate in accordance with other procedures of the Senate.

(7) A statement that information or a document is not published, or is confidential, or consists of advice to, or internal deliberations of, government, in the absence of specification of the harm to the public interest that could result from the disclosure of the information or document, is not a statement that meets the requirements of paragraph (1) or (4).

(8) If a minister concludes that a statement under paragraph (3) should more appropriately be made by the head of an agency, by reason of the independence of that agency from ministerial direction or control, the minister shall inform the committee of that conclusion and the reason for that conclusion, and shall refer the matter to the head of the agency, who shall then be required to provide a statement in accordance with paragraph (3).

(d) requires the Procedure Committee to review the operation of this order and report to the Senate by 20 August 2009.

(13 May 2009)

ATTACHMENT B

Provision of commercial-in-confidence material to the Senate

See also section 4.10 in the *Guidelines*

On 30 October 2003 the Senate agreed to the following motion on commercial-in-confidence material:

> That the Senate and Senate committees shall not entertain any claim to withhold information from the Senate or a committee on the grounds that it is commercial-in-confidence, unless the claim is made by a minister and is accompanied by a statement setting out the basis for the claim, including a statement of any commercial harm that may result from the disclosure of the information.

Senate committees have not always pressed a request for material when officials have stated the grounds on which they consider material to be confidential-in-confidence. The Senate order set out above does not mean that officials should no longer indicate that they consider that material might appropriately be withheld. However, if the Committee presses its request, officials should refer it to the relevant minister. If the minister determines that a claim of public interest immunity should be made, the procedures set out at sections 4.4 to 4.11 should be followed.

As a general guide, it would be inappropriate to disclose information that could disadvantage a contractor and advantage their competitors in future tender processes, for example:

(a) details of commercial strategies or fee/price structures (where this would reveal information about the contractor's cost structure or whether the contractor was making a profit or loss on the supply of a particular good or service)

(b) details of intellectual property and other information which would be of significant commercial value

(c) special terms which are unique to a particular contract, the disclosure of which may, or could reasonably be expected to, prejudice the contractor's ability to negotiate contracts with other customers or adversely affect the future supply of information or services to the Commonwealth.

The following information would normally be disclosed:

(a) details of contracting processes including tender specifications, criteria for evaluating tenders, and criteria for measuring performance of the successful tenderer (but not information about the content or assessment of individual tenders)

(b) a description of total amounts payable under a contract (i.e., as a minimum the information that would be reported in the Commonwealth Gazette or, for consultants, the information that would be reported in an agency's annual report)

(c) an account of the performance measures to be applied

(d) factual information about outcomes.

ATTENDING ESTIMATES… Parking arrangements and access to Parliament House

Accessing staff carparks and entering via Senate/HoR/Ministerial entrances

In 2011the Presiding Officers approved changes to the parking arrangements within the Parliamentary precinct that mean that Commonwealth agencies and sponsored (lobbyist) pass holders will generally no longer be able to access the Senate and House of Representative car parks.

Twenty extra car spaces within the public car park will be reserved for public servants whose vehicles have a Commonwealth Government sticker displayed. These spaces will be signposted and require the display of valid permits. Commonwealth and sponsored pass holders will continue to have access to the Ministerial open-air car parks, and any pass holder with access to slip roads or the Ministerial underground car park will retain that access.

Alternative parking may be available:

a) in the Parliament House public car park - Please note that fees apply after 2 hours; http://www.aph.gov.au/Visit_Parliament/Planning_a_visit/FAQs_paid_parking

b) along Federation Mall; or

c) at the West Block car park (off Queen Victoria Terrace).

The Department has recommended in the past that witnesses for the forthcoming Estimates hearings consider sharing cars or catching taxis to and from Parliament House. There is a taxi rank in the public car park at the front of the building.

Entering Parliament House through the main entrance:

- From 8.00am to 9.00am—Passes will be issued at the pass desk in the marble foyer (adjacent to the right side marble stairs).
- From 9.00am onwards—Passes will be issued in the Tom Roberts Foyer, (first floor, outside the Main Committee Room).
- The front entrance will remain open until one hour after the last committee has risen (approx midnight), to allow you to return easily to the public car park.

All agency attendee lists will be at all doors.

Australian Government

Australian Sports Anti-Doping Authority

Presentation to MSRM Meeting

1 October 2015

Park Hyatt Hotel

Melbourne

Ben McDevitt

Thanks for the opportunity to be here today.

I would like to try to make sure that we focus on the issues of importance to you so I intend to just give a couple of impressions having been CEO of ASADA for a little over 12 months and then leave time for questions.

In the last year a lot of people have asked me if we have a problem with doping in sport in Australia.

Coming from law enforcement I tend to rely on available evidence to arrive at a conclusion. So let's look at some of the evidence to date:

- Customs data from last year identifies almost 7000 separate detections of performance and image enhancing substances at the Australian border – the second highest on record.
    - Of these detections, 77.4% were steroids and 22.6% were hormones
    - Obviously increased supply is a function of the market and we could assume there is increased demand
    - This is supported when we look nationally at arrests for steroids in this country and see that there was an increase of 41.6% in arrests for steroids in 2013/14 compared to 2012/13
- I hasten to add that we are not alone with these escalating trends and I have discussed similar problems with my counterparts in the US, UK and Canada.

In the last 12 months

- MOU with Customs so ASADA notified of detections
- ASADA's IT systems, people and facilities are now sitting at PROTECTED status – access to the Australian Criminal Intelligence Database (ACID)
- ASADA's Head of Intelligence is a seconded AFP Officer

We know of course that not everyone who seeks steroids or human growth hormones does it in order to cheat in sports competitions.

We know from many of our investigations and interviews that for many people who use PIEDs, body image is the main motivation for use – we are aware of the steroid culture that exists in gyms, the upsurge in anti-ageing clinics and for young males the desire to have bulging muscles in t-shirts and a six pack on the beach.

So it's not all usage for the purpose of cheating in sport and we believe that a number of athletes who come to our attention for breaches of anti-doping laws probably were more in the inadvertent category and got caught when they entered a sports competition and tested positive.

This is part of the reason why education is such an important tool in ASADA's armoury, why we have doubled our education team in the past year and why I am very pleased that anti-doping and valued based decision making has been accepted as part of Australia's national school curriculum.

Let's return to the question of whether or not we have a doping problem and our evidence base.

- ASADA has averaged just over 2 positive blood or urine tests for banned substances every month for the past 5 years
- In my mind this is a particularly worrying trend given many banned substances exit the body very quickly and there are masking agents and sophisticated doping techniques designed to minimise the chances of testing positive.
- Another worrying statistic which I want to share with you is about the numbers of athletes who have been caught and sanctioned for using performance enhancing drugs.
    - In the last 12 months 45 Australian athletes have been sanctioned across 11 different sports. These are not athletes who have been given show cause notices. These are athletes who have been found guilty of doping violations and been sanctioned.

So when I look at all this and come back to the question of whether we have a problem with doping I say that we do not experience systemic or, god forbid, state sponsored doping that may be present in other countries, and also I do not believe that there is substantial evidence of regimented doping in any particular Australian sport at this point in time.

That said, we would be naïve to think that we do not face an ongoing threat by doping. For some, the win at all costs mentality is paramount.

I read a book written by Charlie Francis who was the coach of Canadian 100 metre sprint champion Ben Johnson who you will recall was stripped of his gold medal shortly after winning it at the Seoul Olympics in 1988.

In the book Francis describes the prevailing trend towards uptake of steroids as follows:

> *"Numbers define one's place in the track world. Canada's place was receding – and I felt sure I knew why. Angella (one of his female sprinters) wasn't losing ground because of a talent gap. She was losing because of a drug gap, and it was widening by the day. From what I saw and heard, it was clear that world-ranked women were using banned substances. As I tracked the steroid trail – the network of coaches, doctors, and managers known to be involved with drugs – I found that it led to athlete after athlete. I arrived at a central premise which would guide my counsel for Angella, as well as for Ben Johnson and my other top male sprinters when they reached a similar crossroads."*

The central premise was:

> ***"An athlete could not expect to win in top international competition without using anabolic steroids."***

I expect there are many athletes, coaches and support personnel who still hold similar views today although the substances have changed.

Doping is not going away – it is more sophisticated, more readily available and harder to detect.

There are people willing to push the boundaries with experimental substances and methods which have not been clinically tested or approved for human use.

It is important to understand also that ASADA is not the enemy and that the fight against doping is not a fight against sport. ASADA is trying its best to protect clean athletes and their right to compete on a level playing field.

ASADA's reason for being is to protect Australia's sporting integrity and the health of Australian athletes.

Sport is a multi-billion dollar industry in Australia and an $800 billion industry globally. We have to protect the integrity of that industry. Beyond dollars though, the reputation of Australian sporting excellence and the achievements of our athletes is just extraordinary and we have to jealously guard our reputation for fair play.

We are working hard with sporting codes and the 85 sports who have anti-doping policies to help them to target harden their sports and thereby their reputations.

My aim is to work with sports in a partnership approach to make environments at sporting clubs hostile to cheating and to doping.

Some of the positive changes I have seen are:

- Uptake in integiry teams
- Injection policies
- Background checking for support staff
- Mandatory recordkeeping for supplements
- Uptake of education regime
    - Increase in use of our check your substances website.

I'll finish there and will be happy to answer your questions.

Transcript

Station:	**CANBERRA CONFERENCE UNIT**	Date:	**12/01/2016**
Program:	**BRIEFING**	Time:	**07:30 AM**
Compere:		Summary ID:	**C00064518308**
Item:	**PRESS CONFERENCE BY BEN MCDEVITT (ASADA), DISCUSSING THE COURT OF ARBITRATION FOR SPORT DECISION.**		

Audience:	Male 16+	Female 16+	All people
	N/A	N/A	N/A

BEN MCDEVITT: Well, good afternoon everybody and thank you for attending. As you're aware, the Court of Arbitration for Sport has handed down its decision in relation to the 34 current and former Essendon players. The panel was comfortably satisfied that the players had used the prohibited substance Thymocin Beta-4 during the 2012 season. As sanctions, the panel handed down a two-year ban to each of the 34 players. I will talk more on the sanctions a little later.

But first I'd like to acknowledge the CAS panel itself. This has been the most complex anti-doping case in Australia's history and their independence, consideration and expertise on this matter has been absolutely invaluable. I would like to also start by saying that today's verdict or decision doesn't bring me any particular joy. There are no winners when a team of professional athletes sign on to a program of secret injections of a prohibited substance. ASADA celebrates honest, fair competition, clean sport and our education and engagement teams work very, very hard to prevent doping. I much prefer to put my efforts into

target hardening sports than having to conduct investigations into doping allegations.

But when people act outside of the rules, we will take action and I am very pleased that ASADA pursued this case to the end. As I have said before, I strongly believe that had we not pursued this case, we would have been in gross dereliction of our duty as the national regulator for anti-doping in this country. Our job includes the investigation of possible doping violations and an effective and ethical regulator doesn't just take the easy cases. We don't just pursue the cases where there is a positive test, for example, and this was one of the more difficult cases to pursue. As you all know, there was no positive test involved in this investigation. But when we have evidence, we've got to pursue it, we've got to implement the framework and we've got to do our job without fear or without favour. Regardless of actually how long it might take to see it resolved. Let's not forget that Australia's ability to compete in international sport relies on our commitment to clean sport and we need to fiercely guard that reputation that we have as one of the finest sporting nations on the planet. Sweeping a case under the carpet because it's too complex or too difficult is not an option and never will be. This case had to be pursued until the truth was revealed.

In my view, this entire episode has chronicled the most devastating case of self-inflicted injury by a sporting club in Australia's history. And this self-inflicted injury began with a decision to embark upon an injections program designed to give this sporting club a

competitive edge against its rivals. In fact, that wasn't the outcome that was achieved. In fact, it has resulted in enormous financial costs for the club, untold damage to its reputation and to the reputation of the sport itself and, as yet, largely unknown mental and physical effects for those who were participants in the injections program. The toll for Essendon has certainly been enormous. And I hope that Essendon is able to regain its former status as one of the most iconic sporting clubs in this nation. And I can say that ASADA stands ready to work with Essendon and to work with the AFL, as we do, to assist to target-harden the environment and make the environment across the AFL and across their clubs even more hostile to doping than it is right now.

And I might add that a lot of work has been done by Gillon McLachlan and the AFL in terms of introduction of measures such as no-injections regimes, no-injections programs, declaration of all supplements, background checking of potential employees coming into the club and so on and so on. I'm sure people will ask me do I feel for the players? Yes, I do. I feel for them quite strongly on a couple of fronts. One is that the length of time that this has involved. I think it's gone on for too long. And there are multiple reasons for why this has gone on for three-plus years. And some of those are reasons that are beyond the control of any particular party involved. You know we've had a lot of appeals, we have some extended processes, our framework, I believe, is rather convoluted, I think it is cumbersome and I agree with the ex-former Federal Court judge who reviewed our framework that it is delay-prone. So, on that front, I feel for the players.

I'm strongly of the view that we as a collective need to be able to streamline the timeframes involved between notification of an alleged violation or receipt of information about an alleged violation and its final resolution. I am more than happy to work to the best of my ability to assist in doing that. So that's one front on which I feel for the players. The second front I feel for them is in relation to their awareness about the decisions that they made in the lead-up to the 2012 season. They made conscious decisions, very conscious decisions. But they obviously never paid due regard to the enormous possible ramifications and consequences of those decisions that they made when they signed on to a program involving injections of those substances. They never considered probably the impact it would have on their own playing futures, on their own personal reputations as players, on the reputation of the club that they played for, on the reputation of the code and, in particular, on the possible mental and physical implications and ramifications that this may have for them in the future. I also feel for their fans who must feel so badly let down. My final point before I come to the details of WADA's case is just to recap on some of the events that led us to where we are now in 2016.

Everybody I think is familiar with the report released by the Australian Crime Commission in February of 2013, summarised an investigation which had found widespread use of peptides and hormones by professional athletes in Australia including officials from a club administering a variety of substances via injections and IV drips. Three months later, you will recall Essendon released their own independent review

conducted by Ziggy Switkowski which reported a disturbing picture of a farm pharmacologically experimental environment never adequately controlled or documented within the club. Another three months later, Essendon was fined $2 million by the AFL for permitting a culture of frequent, uninformed and unregulated use of the injection of substances. And as I've said before, I strongly applaud the AFL for the very strong action they took in relation to governance failures at Essendon. Last year, the AFL Anti-Doping Tribunal cleared the 34 current and former players but found a deplorable failure to keep comprehensive records and an unquestioning reliance on the sports scientist. Only a few weeks ago, you would be aware Essendon pleaded guilty to WorkSafe Victoria charges in relation to failing to provide a safe working environment without risks to health.

So, that's a recap and it brings us to where we are now with the outcome of the appeal by WADA. As you are aware, ASADA originally took this case before the AFL Anti-Doping Tribunal and that tribunal was not satisfied by the evidence put before it. As I said last year, I believe the tribunal got it wrong. But the appeal process open to ASADA was cumbersome. We had no direct right of appeal to the Court of Arbitration for Sport without first having the case heard in the AFL Anti-Doping Appeals Tribunal. This would have drawn out this matter for at least another year and I believe the outcome would not have changed. With the knowledge that WADA had an interest in the case, I decided that ASADA would forego its appeal opportunity in order to speed up the time before the case was potentially heard before an experienced and

independent Court of Arbitration for Sport panel. WADA subsequently did choose to exercise their independent right of appeal to CAS and they did that following their own internal reviews of which I think there were two of the case files which we had provided to WADA.

ASADA fully supported the decision by WADA to appeal these matters. WADA's reasons for appealing were twofold: Firstly, they believed that the AFL anti-doping tribunal had set the bar for comfortable satisfaction too high and, secondly, they believed that the decision set a dangerous precedent for anti-doping cases where there was not a positive blood or urine test. Why did both WADA and ASADA think that? The reason is because the AFL Tribunal accepted that Stephen Dank made plans to use Thymosin Beta-4 as part of Essendon's injection program. Despite this - sorry, they also accepted the players had consented to being injected with Thymosin and that injections had occurred. Despite this, they were not comfortably concerned or satisfied that the injections actually contained Thymosin Beta-4 because there were no adequate records kept and because Essendon failed to carry out lab analysis of the substances.

This level of satisfaction, this requirement, would make it almost impossible for any anti-doping agency to pursue a case that did not involve a positive test in blood or urine. In the lead-up to the CAS appeal hearing, some media outlets reported that WADA had new evidence to bring to the hearing, including a test for Thymosin Beta-4 however, despite an attempt to

develop such a test, there is still no reliable way to detect artificial Thymosin Beta-4. This means that other than the substitution of one scientific expert, WADA's case was built on the same evidence presented to ASADA- by ASADA to the AFL Tribunal. In fact, the case presented by WADA was actually put together by WADA and ASADA lawyers working together using the evidence which had previously been collected by ASADA. So, no, it was not a more compelling case and the Court of Arbitration for Sport acknowledged that their decision was based on the same evidence presented earlier by ASADA. They placed no reliance on any new scientific evidence. The key difference which led to a very different outcome was in relation to the proper application of the burden of proof. And that burden, as you know, is comfortable satisfaction in accordance with the World Anti-Doping Code. To be blunt, the AFL Tribunal simply got it wrong.

Now that the CAS decision is final, I can share some facts of the case, some which have previously been confidential. Broadly, there was clear evidence that members of the club implemented a program designed to make Essendon players bigger and stronger and able to recover more quickly to gain an advantage over their opposition. In the words of Stephen Dank; Thymosin was the vital cornerstone of that program. I will offer a brief summary of some of the evidence that led to that conclusion, though bear in mind there are over 10,000 pages of evidence tendered as exhibits during the hearing. Firstly, Essendon's sports scientist Stephen Dank was shown to have used Thymosin Beta-4 on other athletes prior to his arrival at Essendon. There were over 100 text messages that unveiled a plan to

source Thymosin Beta-4 for the purpose of doping the Essendon team. The players signed consent forms agreeing to Thymosin injections and each received a number of injections. Six players reported being told they were being injected with Thymosin. Two players reported seeing vials marked with the word Thymosin in the sports scientist's fridge. Two players sent text messages discussing their Thymosin injections with Stephen Dank. Scientific analysis of a substance compounded by the pharmacist for Essendon showed that the substance was no other kind of Thymosin other than Thymosin Beta-4 with a 97 to 99 per cent accuracy. So, to be frank, the defence raised that this was a good Thymosin or Thymomodulin or something else was frankly dismissed as rubbish. This evidence, all of which was collected by ASADA, proved that the players had been injected with Thymosin Beta-4. At this point, CAS then considered the sanctions. The panel did not find the players to be at no significant fault or negligence. In fact, in their words the players' lack of curiosity is fatal to the success of this particular plea. Some of the facts they considered were: Firstly, all of the players had had anti-doping education. As such, they were all well aware they are personally responsible for personally responsible for any substances that enter their body.

The players were told by team officials that this program would push the edge and was close to the line in terms of legality. They made no inquiries via ASADA, via WADA or Internet searches as to what Thymosin was. ASADA conducted 30 testing missions at Essendon during the time in question between February and September 2012, 30 testing missions. Each time players

subjected to tests were asked the standard questions by our doping control officers which were to declare any substances that they had taken, be it Panadol, Ibuprofen, protein powder, but in 30 tests- in 30 approaches only one player declared a supplement injection and declared that was for vitamin B. They also hid the injections from their team doctor who testified that no player had ever asked about any of the substances.

Finally, let's not talk about children or minors. These are not minors or children. These are adults. They are adults, professional athletes. At the end of the day, 34 players signed on to receive four substances. Yes, they were told the injection program was WADA compliant, but they adopted a head in the sand approach in contravention of their anti-doping education. They agreed to keep it a secret. They failed to declare the injections to doping control officers, they accepted that they were walking close to the line, and they deliberately kept it from the team doctor. This culture of concealment is supported by the club's apparent lack of any credible documentation. This was a secret program and the players were not just innocent bystanders.

At best, the players did not ask the questions or the people that they should have. At worst, they were complicit in a culture of secrecy and concealment. Many believe that the sanctions that Essendon received as a club for governance issues should be sufficient. As I said, I commend the AFL for the strong action they took against the club as a whole for poor

governance. But that did not mean that the cases against the individual players could be dropped and should not be pursued.

Athletes around Australia are told time and time again that they are responsible for what goes into their bodies. That premise - personal responsibility - is actually the cornerstone of not only the Australian anti-doping code but the world anti-doping code. And you simply cannot shift that personal responsibility to any support person or any other person full stop. It remains fully and squarely with the athlete. To not pursue the Essendon players would have been an injustice to all clean athletes, who do the right thing and take their anti-doping responsibility seriously.

Let's not forget - the players had a choice. One player said no, and that player is free to play this season. I will wrap up shortly but firstly I would like to address the fact this case has taken almost three years. In anti-doping cases of this sort of size and complexity, this is not unusual. The Lance Armstrong case took two years. The Balko case took three years. And we are here in 2016 not because of decisions made by ASADA or anybody else in 2013, 2014 or 2015. We are here because of decisions made by the club and the players in 2012. Of course, there are lessons to be learned from this case, and we will continue to review what took place. The inability of either the AFL Tribunal or the Court of Arbitration for Sport to be able to compel witnesses to testify is one area which is an ongoing concern to me. But there are other outcomes to take from this.

This case has been a watershed for Australian anti-doping. It has consumed the media, ASADA, Essendon and the AFL for the better part of three years. But if there is something good to come out of this, it is that Australia has come out stronger in terms of its anti-doping resilience and capabilities. Awareness has increased. Education has increased significantly. Sports policies have improved significantly. Anti-doping and values-based decision making are actually now part of the national schools curriculum. Given it has occurred in front of an international backdrop of doping scandals, it shows that Australia - and that ASADA - is fully committed to pursuing anti-doping violations.

Our clean athletes should take immense comfort knowing that ASADA is in their corner and willing and able to catch dopers. At the same time, I hope this case serves as a warning to any other athletes who may be considering doping or who are offered secret substances. ASADA has one of the best anti-doping education programs in the world, and we will continue to engage with athletes and sports to ensure they are aware of their anti-doping responsibilities. Once more, I thank CAS for their expertise in this matter. I thank WADA, and I thank the hard working officers at ASADA, both past and present, who have persevered against much adversity to bring this case to its rightful conclusion.

It has taken a long time, but the result is the exposure of the worst case of team-based doping that this country has ever seen. Why did ASADA pursue this case despite constant attacks and calls to drop the matter,

to move on and say nothing to see here? Because at the end of the day, there's always a choice between the easy thing to do and the right thing to do, and you don't just walk away from something because some people simply think it's too hard or it's just taking too long.

Thanks very much, I'm happy to take a few questions.

* * END * *

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objective, just to remind you of the change between Sporting Schools and AASC, is that a significantly higher proportion of funding is going out the door. The 30 sports engaged in the program have taken on a much greater role in connecting with their local schools. In the past under the Active After-school Communities program there was a large number of private providers that had no connection directly to a sport. They would simply provide a sport service. Schools were often happy with that provider. As we have moved to Sporting Schools, there have been some situations where schools have preferred to remain with that provider even though it has no connection with a sport. We are managing that transition with the local schools and the local sports to try to ensure that the people who are providing the instruction to children are accredited by the sport. That is our preference. But there is a transition phase. That issue has come up on a number of occasions. In some cases, the provision of the service can be more expensive, but the counter to that is that it is being delivered by a coach who is accredited by the sport. That is the trade-off. We need to manage that to make sure that it is affordable for schools but, on the same basis, that students are getting the proper tuition.

Senator PERIS: Are you happy with how you are able to manage those issues that have been raised?

Mr Hollingsworth: Yes.

Senator PERIS: I am jumping around a bit here, but I wanted to go to the Paralympic funding. Can you tell us the total investment for Paralympic sports in each of the specialist sporting organisation investment allocations going back to 2013-14, 2014-15 and 2015-16.

Mr Hollingsworth: The Australian Paralympic Committee?

Senator PERIS: Yes.

Mr Hollingsworth: It might be easier, Senator, if I compare the four-year Rio cycle to the London cycle. For the four-year Rio cycle coming into the Rio Paralympics the total funding provided to the Paralympic sports including the Paralympic Committee totals $62.5 million. The funding for the equivalent period, the London Paralympic cycle, was $47 million. The increase in funding over the quadrennial is up by $15.5 million or 33 per cent and that is funding to sports and athletes.

Senator PERIS: Has there been any funding decrease from last year, 2014-15, to where it is now, if you look at annual funding cycles just for the Paralympics?

Mr Hollingsworth: No.

Senator PERIS: Thank you.

CHAIR: Are there any other questions for the Sports Commission? There being no other questions we now move to ASADA.

Australian Sports Anti-Doping Authority

[17:02]

CHAIR: I am going to start with Senator Madigan and then go to Senator Back.

Senator MADIGAN: Mr McDevitt, my questions pertain to the AFL Anti-Doping Tribunal and the 34 Essendon footballers. Is it correct that the AFL Anti-Doping Tribunal cleared the 34 Essendon footballers of an alleged violation of the AFL doping code?

Mr McDevitt: Yes, Senator, that is correct.

Senator MADIGAN: Was the AFL Anti-Doping Tribunal chaired by two retired Victorian County Court judges and an eminent barrister?

Mr McDevitt: That is correct, Senator.

Senator MADIGAN: Mr McDevitt, did ASADA believe there was something fundamentally wrong with that decision of those two retired Victorian County Court judges and eminent barrister, who actually convicted and sent people to jail in their professions previously?

Mr McDevitt: Senator, I might make some opening comments. The first one is to say that at no time have I questioned the integrity of the individuals who sit on the AFL Anti-Doping Tribunal. These are people with great integrity and great experience. As you yourself pointed out, their experience basically emanates from the criminal jurisdiction, which is a jurisdiction that looks at issues generally through the lens of beyond a reasonable doubt. I believe and WADA believed that in this case the AFL Anti-Doping Tribunal simply got it wrong, and I believe that for several reasons.

Firstly, I do not believe that due weighting was given to pieces of evidence that were presented to that tribunal. Secondly, I believe that they held the bar of 'comfortable satisfaction' so high that, if allowed to remain, it would have set a precedent which would have made it extremely difficult if not impossible, not only for ASADA, but for any anti-doping organisation in the world to successfully prosecute a matter which did not, as in this case, involve a positive test.

Senator, let me just give you a couple of examples. As you know, I fully supported the WADA appeal and I supported it in kind and financially. The decision to appeal was totally WADA's. Do not overestimate my influence on WADA. They actually undertook their own reviews and made their own decisions to appeal. Let me just give you a couple of examples.

The tribunal itself accepted that Steven Dank made plans to use thymosin beta-4 as part of Essendon's injection program. They also accepted that the players had consented to being injected with thymosin and that injections had occurred. Despite this, they were not comfortably concerned or satisfied that the injections actually contained thymosin beta-4 because there were no adequate records kept and because Essendon failed to carry out lab analysis of the substances. Then you look at a couple of these issues. The CAS panel openly disagreed with the tribunal on several things. Let us talk about the records.

Senator MADIGAN: Just for clarity, Mr McDevitt, CAS is not an Australian body, is it? Just so everybody can be crystal clear.

Mr McDevitt: CAS is the ultimate sports—

Senator MADIGAN: It is not an Australian court, Mr McDevitt, is it? It is not Australian law.

Mr McDevitt: It has an office—

Senator MADIGAN: It is not Australian law, is it, Mr McDevitt? It is not subject to review by the Australian parliament or by Australian politicians, which most Australians expect and, more importantly, deserve, Mr McDevitt, is it? It is not an Australian court. It is a foreign body. It is not an Australian court.

Mr McDevitt: I disagree with you, Senator.

Senator MADIGAN: Let us be crystal clear, Mr McDevitt.

Mr McDevitt: Senator, we have a legislative framework.

Senator MADIGAN: It is not an Australian court, is it, Mr McDevitt? Is not to Australian law.

CHAIR: Senator Madigan, you have put that a number of times.

Senator MADIGAN: Well, he will not answer the question.

CHAIR: Senator Madigan, just one moment. I am giving you a fair go. You have put that several times. Mr McDevitt can come back and answer, and if you are not satisfied with the answer you can ask him further questions, but I will not have you badgering him. I will go to Mr McDevitt.

Mr McDevitt: Senator, can I finish the original question which was about the fact that the decision was so fundamentally flawed. I was talking about the lack of records and the Court of Arbitration for Sport said:

No record was kept within Essendon; indeed, the absence of such record was the subject of forceful criticism by the AFL Tribunal and relied upon by it as a reason to find ASADA's case to be insufficiently substantiated.

CAS, in looking at the lack of records actually said:

However, the very fact that no record was kept is in the Panel's view suggestive again of a desire to shroud the regime in a veil of secrecy.

Secondly, talking about the source of the substance itself, again the CAS panel found in their view that the AFL tribunal had got it wrong and said:

It is not an essential link (or indeed strand) in a case of a violation of Article 2.2 of the WADC that the source of the product used can be identified. It has never been so stated in any of the relevant case law, is not required on the face of the article itself or the commentary, and would be a significant bar to the fight against doping.

Senator, that is why I forgo my opportunity to appeal within the AFL framework. I was extremely confident that WADA would appeal this finding because it was simply untenable.

Senator MADIGAN: You earlier said in your evidence, Mr McDevitt, that WADA appealed, WADA did not appeal. You were not happy with the decision, you have said that the decision was flawed, why did ASADA not avail itself of the appeal process afforded to it under the AFL Anti-Doping Tribunal, which is an Australian body, not a foreign body?

Mr McDevitt: There were a couple of reasons for that. You may recall that, on the day after the tribunal released its decision, I did a press conference, and one of the very first things I said was, 'An appeal option is a very, very live option.' The appeal option had two possible routes for me. One was to appeal to the AFL antidoping appeals tribunal, which would mean that the matters would remain under the umbrella of the AFL's framework, and the second option, which was the one I took, was to forgo my appeal option, refer the matters to WADA and allow them then, if they saw fit, to initiate an appeal to CAS. I did not have a direct opportunity to appeal to CAS.

Quite frankly, this matter was going to end up in CAS anyway. It would have cost the Australian taxpayer approximately a million dollars for me to have fully run an appeal, because the appeals tribunal would have wanted a full de novo hearing, which would have

meant that we would have run the whole case again before that appeals tribunal. I can almost guarantee you that, if the result of that appeals tribunal had been the players being found guilty, they would have almost certainly themselves exercised their appeal option, which was open to them, to then go to the CAS. I can tell you also that, if the appeals tribunal had found in favour of the players and applied and accepted the same logic of the lower tribunal in the original decision, then, for the exact same reasons I have just outlined to you, I would have then initiated my right of appeal to CAS. I believe we saved almost a million dollars and we also saved almost 12 months in this process by opting for the option which I did, and that is why I decided not to appeal within the AFL framework.

Senator MADIGAN: Mr McDevitt, given that the Commonwealth through ASADA contributed more than $100,000—I think it is—towards the cost of a WADA case against Essendon, and you are saying in your evidence there that it would have cost somewhere in the vicinity of a million dollars, you are saying there is a price on justice for people—for these 34 individuals, their wives or partners and their children. Is that what you are putting to us?

Mr McDevitt: No, I am not, Senator.

Senator MADIGAN: You have just said we could have spent a million dollars, or we could have spent $100,000. The money is the consideration, not justice for people. We put a price on justice. Is that right?

Mr McDevitt: I think you are putting words in my mouth, with all due respect. I said there was a saving in funding, in taxpayers' money, which I think is a reasonable and fair consideration. I think there was a significant saving in time. We would be before CAS now if we had gone the route that you are saying we probably should have gone.

Senator MADIGAN: A foreign body, not an Australian one.

Mr McDevitt: So we saved money; we saved a hell of a lot of time. I am aware of the stress that these matters have caused for all stakeholders involved here, not just the players, and I think it was a considerable saving there. What we needed was resolution of these matters, and we needed the truth to be revealed.

Senator MADIGAN: Do you believe that ASADA, as a Commonwealth agency, has an obligation to act as a model litigant?

Mr McDevitt: Absolutely, and we do at all times act as a model litigant.

Senator MADIGAN: In section 2(d) of 'The Commonwealth's obligation to act as a model litigant', it says:

> … endeavouring to avoid, prevent and limit the scope of legal proceedings wherever possible, including by giving consideration in all cases to alternative dispute resolution before initiating legal proceedings and by participating in alternative dispute resolution processes where appropriate

I go back to the fact that you did have an ability, there was an opportunity there, for ASADA to appeal the decision under the AFL doping tribunal procedures, but you did not take it. That is on Australian soil under Australian law, not a foreign body. You have said that the 34 players can appeal the decision to CAS, but it is on the other side of the world, and these people's livelihood has been taken from them. Do you think it is fair that they have to go to the other side of the world? I think the hearings are in French, aren't they, Mr McDevitt, in CAS?

Mr McDevitt: There are multiple questions there.

Senator MADIGAN: Do you think that is fair?

Mr McDevitt: Absolutely. I think the main thing we have got to do with these matters is get to the truth. We need to expose the facts. I do not think you should be talking about the Court of Arbitration for Sport as if it is some foreign entity that is unknown to us. The Court of Arbitration for Sport hears about 300 matters a year. It has three officers, one in Lausanne, one in New York and one right here in Sydney. It is the most eminent body. It is recognised. For all 85 sports that we deal with in this country, an appeal option to the Court of Arbitration for Sport is built in, in fairness to athletes, to have an appeal option beyond their own tribunals. Are you saying, Senator, in terms of fairness, that you think that that appeal option should be taken away from athletes? They exercise it quite regularly.

Senator MADIGAN: I want them to have an appeal, Mr McDevitt. I want them to have an appeal under Australian law, which Australians expect and, most importantly, deserve, not to be tried by some foreign body. The game of AFL is not an international sport; it is an indigenous sport to Australia. Australians expect and—I repeat again—deserve to be tried under Australian law. I think that there are people quite capable of trying people for alleged breaches of codes in this country—and not for it to be outsourced to a foreign body. ASADA did have an opportunity to avail themselves of an appeals process, and they did not do it. You then outsourced it, and some might say you went verdict shopping, shopping for a verdict, to a foreign body.

Mr McDevitt: Senator, I totally disagree with what you are saying there.

Senator MADIGAN: I am sure you would.

Mr McDevitt: We acted entirely as a model litigant would act, and we took the option of going to the Court of Arbitration for Sport. In the last couple of years, we have had 11 matters before the Court of Arbitration for Sport, not just this one. As I said, it adjudicates in over 300 matters a year, including multiple Australian matters. There are 23 Australians who are arbitrators on the Court of Arbitration for Sport. It is a body which is totally independent of sports, which I think is absolutely critical and is the way that we should globally be. In fact, as you will see today, the International Olympic Committee has now said that any antidoping matters which come out of this year's Olympics or any further Olympics will be immediately referred to the Court of Arbitration for Sport, a totally independent body of eminent experts in sports law.

Senator MADIGAN: Is there a distinct difference, in ASADA's view, between an amateur sportsperson and professional sportsperson? Do you see any difference there?

Mr McDevitt: No, I believe they all should have the rights to appeal any matters that are against them, and one of those critical rights for them is to have an appeal option to the Court of Arbitration for Sport. There is the fallacy out there that it does not apply, for example, to team sports. Of the 85 sports that we have here in Australia, 30 plus of them have a team element, and 18 of them are pure team sports. That includes rugby union, hockey, ice hockey, AFL, soccer—there are 18 sports that are just pure team sports. It is good enough for the English Premier League, Senator, but it is not good enough for the AFL to have an option to go to the Court of Arbitration for Sport?

Senator MADIGAN: Do Australians have a right to be tried, examined, for whatever they may or may not have done, under Australian law?

Mr McDevitt: Let me put it another way. What was conducted here and the processes that were followed here were under the AFL's antidoping policy. So, under the AFL's own rules, we exercised the options to appeal to CAS—under their rules. Does that help you?

Senator MADIGAN: Mr McDevitt, earlier in your evidence you said that, for want of better words, the burden of proof to those two retired Victorian County Court judges and an eminent barrister was here, that ASADA—for want of better words—could not get a conviction at that level, and that the level of CAS was here. There are two different levels there. This is the Australian level that Australians all expect and deserve, and this is the CAS level, in a court. That is what you said.

Mr McDevitt: Senator, this is consistent with your remark that the AFL Essendon players were treated the same as rapists. With all due respect, we are talking about totally, totally different situations. I have worked most of my life in the criminal jurisdiction. I have arrested and charged rapists, multiple times. And I can tell you it is totally, totally different. What we are dealing with here is sports law. The sports law requires a bar, which is called 'comfortable satisfaction', which is movable between 'balance of probabilities' and 'beyond a reasonable doubt'. Both I and WADA believe that in this case the AFL Tribunal held that bar far too close to 'beyond a reasonable doubt'.

Senator MADIGAN: But wasn't the AFL Tribunal WADA compliant? When they set up the AFL doping tribunal, WADA were involved in the setting up of that process, were they not?

Mr McDevitt: Not to my knowledge.

Senator MADIGAN: You are saying that the AFL doping tribunal was not WADA compliant?

Mr McDevitt: No, I am not saying that.

Senator MADIGAN: I am just trying to understand, Mr McDevitt.

Mr McDevitt: There is a framework which starts with the UNESCO convention, as you are aware, of which there are hundreds of countries which are signatories. We then had, as you are aware, the World Anti-Doping Code. WADA does not own the code, and WADA does not impose the code. All that WADA does is monitor compliance with the code. The code itself is developed by countries and sports.

Senator MADIGAN: I understand that. I am just saying: was the AFL doping tribunal, in the way it was set up, compliant with WADA, or was it not? Do you know; yes or no? It is fair enough if you do not know.

Mr McDevitt: It was established under the AFL's antidoping policy, and, yes, the establishment of that tribunal is consistent with the requirements of the World Anti-Doping Code.

Senator MADIGAN: So it was consistent. This is my last question. Australia is a signatory to the International Labour Organization convention on the rights of workers and their conditions of work. This specific treaty was ratified by the Australian government decades before anything was signed against doping in sport. The fact of the matter—what concerns me—is that we have a code that you say the Australian government signed up to under which now a foreign body or entity has affected people's right to work, their ability to

work. Can you see my concern here, Mr McDevitt? A foreign body has taken away people's livelihoods.

I might also add that some of these people have business interests outside football, so they are looking to the future, when they retire. I know for a fact that some of these people have interests in business that is involved in other areas, sports promotion for one, where that business has been told, as a result of this foreign body that is not subject to scrutiny by the Australian public and parliament, 'Don't bother applying for work with us to promote our sports thing if you've got such-and-such'—who is one of the 34 Essendon players in that. Can you see the wide-ranging ramifications for individuals, Mr McDevitt, and how this is a very slippery slope to be going on? I have no truck with people who are drug cheats or cheat, but they should be trialled under Australian law, where it is able to be scrutinised by this parliament. Our job here is to protect the right of Australians to a fair and transparent trial.

Mr McDevitt: Let me try to answer this as quickly as I can. Let me read this too you: 'An ineligible player cannot participate in a training camp exhibitional practice. The term activity also includes for example administrative activities such as serving as an official, director, officer, employee or volunteer of the organisation described. Ineligibility imposed in one sport shall also be recognised by other sports.' You probably think I am reading something from Switzerland. I am reading the AFL's rules. What you are seeing in place is the AFL applying its own rules. If people are found to be in breach of the AFL anti-doping policies, there are very strict consequences. It is not forbidding employment in a whole range of other areas but what you are seeing now is that there are very specific AFL rules about where and when somebody who is undertaking a ban can be employed. Those are the AFL's rules.

Senator MADIGAN: The AFL Anti-Doping Tribunal did not find them guilty, did it?

CHAIR: We are going to leave it there. There might be time to come back but I have others waiting to ask questions.

Senator BACK: I also want to ask some questions about Essendon and the Thymosin Beta-4. Were the players advised by the Essendon club of the supplement they were to be given?

Mr McDevitt: I was not there and I cannot put words in anybody's mouth. Suffice to say that 34 players have given statements and evidence to say they attended briefings about the program that they were to enter into and 34 players signed consent forms to be administered a number of substances, one of which was Thymosin.

Senator BACK: Do you know if they were told that that particular product was legal to be used?

Mr McDevitt: There have been various accounts about exactly what players were or were not told. Whilst I appreciate this is a very important point about what information they were given by, for example, support personal, ultimately the onus rests always on the individual. If they were unsure then they should have sought advice from their doctor. Their doctor gave evidence to say that none of them did. They should have gone to the website where you can look up the substances that are banned but we have no evidence that any of them did. They did not make the inquiries.

Senator DI NATALE: That is not true. Sorry. One of the players went and did some research on the product, that is well-documented.

Senator BACK: Can I continue?

Senator DI NATALE: Sorry.

Senator BACK: Thank you, Senator Di Natale, that is fine. The advice to me was that they did receive assurance in writing from the Essendon Football Club that the product they were to be given was legal. Can you respond to that or can you take that on notice and advise the committee whether or not my assumption is accurate?

Mr McDevitt: I am not aware of that. I will take it on notice.

Senator BACK: Again, the advice to me is that not all players were actually given the supplement—that a number were not given the supplement. Is that consistent with your understanding?

Mr McDevitt: That is correct.

Senator BACK: But they are amongst the 34 who have been found guilty although they never were given the supplement.

Mr McDevitt: Sorry, let me just correct that. There are other players beyond the 34 who were not given the injections. Our evidence is that there were two threshold issues applying to the 34 that were quite critical. All 34 said they did receive injections—of the players who we proceeded against—and all 34 did a sign consent form for various substances including thymosin.

Senator BACK: Were they tested?

Mr McDevitt: Yes, I think there were 30 testing missions across the 2012 season.

Senator BACK: Of all 34?

Mr McDevitt: No, the 30 tested missions covered a total of 21 players, and on all 30 testing missions none of those 21 players ever declared receiving an injection from Mr Dank.

Senator BACK: There were 13 then who were never tested—21 out of 34 were, 13 were not?

Mr McDevitt: I am not sure what the double-up was. What I am saying is 21 of the 34 were tested.

Senator BACK: At what point did they identify to somebody that they had been given this supplement? Was it at the point of testing? Was this the scenario: they went in for a test, the person about to test them said, 'Have you been given any supplements?' Is that how it happened?

Mr McDevitt: That is how it happened. They were asked questions around what have you been given in terms of medication, supplements, any substances, vitamins, anything? What have you been given in the previous seven days? What we had is that not one of them declare these injections. As I said earlier, their own doctor gave evidence to say that none of them approached him in relation to these particular injections.

Senator BACK: We know the 21 were tested. We know the 13 were not tested. Is that correct? Am I right in that summary? You mentioned 21 out of 34.

Mr McDevitt: You are arriving at a number of 13, but your number may actually be higher than that. I am not sure exactly how many times players might have doubled up.

Senator BACK: Perhaps you could take it on notice. The point I want to get to is, if there are numbers of players who were never tested and therefore were never asked, then the question to me is: how are they now found guilty in the court when they were not tested? You just mentioned the last seven days. The information available to me is that amongst those who were tested there were people who had not in fact taken the supplement or been given the supplement within that last seven days and yet they are in the 34. My assumption is that we have three groups. Group 1 is those who were tested within the seven days who said they had not been and they are guilty. Group 2 had not been given a supplement within seven days and, therefore, were absolutely honest when they said, 'We haven't been tested in the last seven days,' but they are in the guilty group. Group 3 have not been tested yet and they are in the guilty group. I need to understand where you can have the guilt of 34 people, some of whom have not been tested?

Mr McDevitt: The premise of your question is that the offence itself is failing to declare the test. That is not the case.

Senator BACK: Right, tell me where the offence was then.

Mr McDevitt: The violation was established through numerous pieces of circumstantial evidence, and if we have the time I will step you through that. What the failure to declare was evidence of was not the offence in its own right, but what the CAS found was that the failure to declare on 30 separate missions to 21 players was indicative of the course of conduct and the culture of secrecy around this particular program. To be frank, it was not a supplements program. This is not supplements; this is banned substances. This was an injections regime, not a supplements program.

Senator BACK: I want to get to that. You have again confirmed 21 players, so 13 at the moment who in my mind have been found guilty without having been the subject of testing. How many, if any, positive swabs—I will call them swabs from my experience as an equine veterinarian—were found to be positive?

Mr McDevitt: At this point in time there is no test to detect artificially administered thymosin beta-4. It occurs naturally in all of us.

Senator BACK: That was going to be my next question: what are the blood levels naturally occurring so we can know the levels of artificial injection?

Mr McDevitt: It occurs naturally in all of us to various extents.

Senator BACK: Exactly.

Mr McDevitt: So, much as there are efforts underway, as with a whole range of substances, to develop tests, in 2012 there wasn't a test for detecting artificially administered or exogenous thymosin beta-4—and, to date, there still isn't. So the fact that there was not a positive test is not, of itself, really taking us anywhere. This is why, in this case, the case was established via other circumstantial evidence—because there weren't positive tests.

Senator BACK: Do we know what effect this or other supplements have? Do they have a stimulatory effect on the central nervous system? Is there a metabolic stimulation? Does it enhance the oxygenation of the blood? What do these supplements do? How do we know they were not placebos? How do we know they were not just coloured lolly water?

Mr McDevitt: The question you ask is important. This is why it is so dangerous—because we do not know the effect of these substances. We know that people use TB-4 for things like accelerated recovery, and that is why we find athletes utilising substances like this. But you have hit the point: the scariest thing about all this is that we actually do not know. There have not been human trials on the substances, and that is why it is banned.

Senator BACK: We do not know the naturally occurring level in the blood. Therefore, we do not know the impact on the blood levels of artificially injected materials. As you said, it may have a recovery effect—and I can understand that—

Mr McDevitt: That is what it is touted as having.

Senator BACK: but it does not seem to have any effect on performance on the day. I agree with you about the abuse of drugs, pharmaceuticals, in the body—whether it is an animal or a human being. But the concern I have is this. You mentioned in your response to Senator Madigan that the Court of Arbitration for Sport found that no records had been kept by Essendon. I have no difficulty at all in a circumstance where somebody finds Essendon guilty of a whole range of activities, but I think we have learnt from you that there is not a court of appeal within Australia to which these people can appeal. I understand that there is a Court of Arbitration for Sport in Sydney, but am I correct in that assumption?

Mr McDevitt: All parties would have had an appeal to the AFL anti-doping tribunal.

Senator BACK: Which they did.

Mr McDevitt: Beyond that, the appeal option is to the Court of Arbitration for Sport. Can I just add that that is not unique to the AFL; it is the case for all 85 sports in Australia.

Senator BACK: Presumably the Australian parliament or the government made a decision to allow the circumstance in which an Australian court ceased to be the highest court of appeal and passed it over to Court of Arbitration for Sport? When did that happen and what was the process that allowed it to happen?

Mr McDevitt: I cannot give you the exact date off the top of my head. What I can say to you is that that decision was made in the Australian parliament when Australia committed to becoming one of the hundreds of countries who were signatories to the UNESCO convention on anti-doping. Underneath that, you had a whole series of articles, legislation and regulations to give effect to that commitment by the Australian parliament. So I guess it was when the ASADA Act 2006 was passed through the parliament. That is when this all blew out.

Senator BACK: Team sports in the United States—football, basketball and baseball—are not signatories to this particular contract.

Mr McDevitt: That is correct.

Senator BACK: Do you understand why those team sport codes in the United States are not signatories and do you think that is of any relevance to this country?

Mr McDevitt: That is a really good question. Let me talk about the National Football League for a second. The National Football League, as you said, is not technically a WADA-compliant organisation. The NFL works out its rules between players association and the NFL players themselves. Let me give you an example. Human growth hormone, which has been on the World Anti-Doping Code banned list for multiple years, was not actually banned in the NFL until the end of 2014. Why? Because the NFL players decided that they did not want it

to be on the banned list. And when they did actually accept that it was on the banned list they determined their own penalties. The penalty for the use of human growth hormone in the NFL is a four-week ban. The penalty under the World Anti-Doping Code is a four-year ban. So what you have got there is frameworks the sports organise on their own. What you have got is a Clayton's framework when you do not want to sign up to the World Anti-Doping Code.

Senator BACK: I think your advice to be—and I would not want to dispute it—is that there are circumstances not applicable here. But I do want to sum it up this way if I can. It seems to me that there are 34 people who are now found guilty, and the implication of that is that they have been banned from sports promotions et cetera. A number of them—I think it was 13—were never tested. Another group were tested, as I understand it, but outside a seven-day preclusion period and they have been found guilty. A third group would appear to be within the seven days and they are guilty. But we have a circumstance in which the tests are inconclusive because nobody knows the baseline for the chemical occurring naturally in the body. We do not know whether this particular chemicals have a direct effect on performance on the football field. And we are in a circumstance in which, as you said, a football club had no records. It would appear that at least one of the players did avail himself of the opportunity to learn about the pharmacology. But if 18- or 19-year-old kids were told by the club that the product was safe and they were advised by the club in writing that the product was legal to use with or without the consent of their parents or other guardians, then I am at a loss to understand how 34 players are now guilty. I am also at a loss in terms of proportionality. Even if the case can be made—and I do not believe it can—I am concerned about the proportionality. We had a group that said it had been taking it within a seven-day period. We had another group who did not take it within the seven day period and would therefore have been quite honest in saying that they did not take it. And we had a third group who never took it—or were never tested, so we really do not know whether they took it. All three groups have been found equally guilty. As an Australian, I find that unacceptable. I would appreciate it if you could comment.

Mr McDevitt: The members of the club implemented a program to make Essendon players bigger, stronger and able to recover more quickly to gain an advantage over their opposition. In the words of Stephen Dank, thymosin was the vital cornerstone of that team based program. Essendon sports scientist Stephen Dank was shown to have used thymosin beta-4 on other athletes prior to him getting to Essendon. There were over 100 text messages that unveiled a plan to source thymosin beta-4 for the purpose of doping the Essendon team. The 34 players signed consent forms agreeing to thymosin beta-4 injections and each of them admitted to receiving a number of injections. Six players reported being told they were being injected with thymosin. Two players reported seeing vials marked with the word 'thymosin' in the sports scientist's fridge. Two players sent text messages discussing their thymosin injections with Stephen Dank. Analysis of the substance compounded by the pharmacist showed that the substance was no other kind of thymosin—with a 97 to 99 per cent probability—than thymosin beta-4. Frankly, this stuff about thymomodulin—the 'good' thymosin—was shown to be absolute rubbish. That is a very short synopsis of some of the evidence that was presented.

I know you are very focused on the test. Again, I just need to say to you that the CAS did not convicted or find guilty these players purely because they had not declared something on

a test. They looked at that aspect simply to say that that was consistent with the other facts that led them to believe that this was a program that the players had agreed to keep secret; a program that the players, as a collective group, agreed was taking them right to the edge.

Senator BACK: One argument could have been it was the code of the team. Another argument has been they are guilty of trying to hide information. Thank you for your information. The proportionality is the thing that really gets to me. The proportionality, I think, is grossly unjust.

Senator DI NATALE: Mr McDevitt, I am not sure which one it is. A moment ago you told us you did not know what this stuff does and now you are saying that it makes the players bigger and stronger. Which one is it?

Mr McDevitt: Don't forget, there were multiple substances here.

Senator DI NATALE: That is irrelevant because they are not found guilty of taking other substances. They are found guilty of Thymosin Beta-4, so what does it do? Does it make people bigger and stronger or do we not know what it does?

Mr McDevitt: As I said earlier, we do not know everything that it does. It is primarily promoted, in my understanding—

Senator DI NATALE: Promoted, yes.

Mr McDevitt: —for recovery. As being an agent for recovery.

Senator DI NATALE: To be clear, you are saying that on one hand it makes the people bigger and stronger, then we are talking about recovery and then we are saying we do not know what it does. Isn't it fair to say there is a good chance this stuff does nothing for performance?

Mr McDevitt: I doubt it. Let me just—

Senator DI NATALE: No. What is the evidence that it does?

Mr McDevitt: If you can recover more quickly you can start pumping iron, you can start running—

Senator DI NATALE: What is the evidence that this improves recovery?

Mr McDevitt: —so the fact that you can train harder and if you recover more quickly then, yes, you can get bigger and stronger.

Senator DI NATALE: What is the evidence that it improves recovery?

Mr McDevitt: I will have to take that on notice. What I can say to you—

Senator DI NATALE: You are making claims about what effect this—

Mr McDevitt: It is promoted globally and it is distributed and trafficked globally because it is believed that it promotes recovery and, as I said to you, if you can recover more quickly you can train harder and you can get bigger and stronger, and that was the aim.

Senator DI NATALE: Go to any health food shop and there are lots of drugs there that are promoted as helping you to lose weight, you lose five kilos in a week. It does not mean that is what they do. I am asking you about the evidence for what this does. The reason I am asking you is that I think you called this the worst case of systematic doping or team doping this country has ever seen. How can you put a substance like this, which some people argue

does absolutely nothing, next to a drug like EPO or testosterone or growth hormone, which are all deliberately designed to help people become bigger and stronger?

Mr McDevitt: It is a banned substance—

Senator DI NATALE: I saw Mr Bowles pass you—I am trying to get you on the facts here and the facts are that you are making claims about the drug that are completely unsubstantiated. I accept that it is a banned substance, so let's move on to that issue. What has been the total cost to date of Operation Cobia?

Mr McDevitt: The total cost of the Cobia investigation has been $5.947 million. External legal costs were $4.329 million. Costs arising from the federal court cases and appeals by Mr Hird and Essendon Football Club total $1.86 million. They are all included in the $5.947 million. And $1.26 million of those costs have been recovered from Essendon and Mr Hird, when they had costs orders against them.

Senator DI NATALE: How much did ASADA contribute to WADA's costs for preparing to make the appeal?

Mr McDevitt: For the wider appeal, the costs were in the order of $130,000, and a $10,000 cost for the CAS arbitration fee. Ultimately, the CAS costs themselves were to be paid by Essendon and the AFL, not by ASADA. I hasten to add that the costs of the CAS appeal and the CAS hearing were significantly less than the costs of the original AFL Tribunal hearing.

Senator DI NATALE: Do you have those numbers?

Mr McDevitt: Approximately $950,000.

Senator DI NATALE: Compared to?

Mr McDevitt: $130,000.

Senator DI NATALE: What I am interested in is there was a clear change in response from you, Mr McDevitt. Back in the middle of 2014, the impression was that the players were not at fault. I think it is best if I quote you. In June 2014, during a radio interview you said:

I think what you are looking at here is a case where there would be good opportunity for a player to say no significant fault.

Then, I think in November, you went on and said, 'Based on the information that ASADA has, the maximum reduction of 50 per cent of the applicable period of ineligibility for no significant fault or negligence would be appropriate.' Clearly, you were of that view and then something changed. Then it became, as I said, the worst case of team based doping in the country and the players had a head-in-the-sand approach. What changed?

Mr McDevitt: A number of things. Let me just say that firstly in terms of penalties, it is very important to point out that ASADA does not determine the penalties.

Senator DI NATALE: No, we accept that.

Mr McDevitt: Penalties are determined by the sport itself or, if it goes to a tribunal, by the tribunal. In relation to the Essendon players, discussions on penalties were had with relevant parties in June 2014 and in November 2014. I engaged in those discussions with a view to trying to get some resolution on these matters. That was what I was trying to do. I tried to do that before infraction notices were issued. The reason I did that is that there were opportunities for players—and it is the same for any athlete—to come forward, for example,

and claim substantial assistance if they come forward and give assistance or if they decide that they want to mount a defence of no significant fault. In this case, and this is where it becomes important, to actually claim no significant fault—and I did put it out there and said, 'Look, you may be able to try to establish this claim and no significant fault—the players said: 'No, we are not going try that. We are going to fight it. And what we are going to do is deny it.' To get no significant fault, you have to firstly admit that, yes, you had the substance. So once they made that critical choice to go to a hearing, the onus was then on them to prove no significant fault. If they had stayed in a state of denial and hence—

Senator DI NATALE: But maybe they believed they were not taking a substance. That is the whole point of no significant fault. It is a non sequitur.

Mr McDevitt: No significant fault means I had the substance, I drank this glass of water and, yes, there was a banned substance in there but I did not know. It was put in there by someone else or whatever. But I have to first say, 'Yes, I took that water and, yes, I accept—

Senator DI NATALE: So you are saying that they rejected having any substance at all?

Mr McDevitt: They rejected it, Senator.

Senator DI NATALE: Right, okay. Once they had acknowledged that they were injected with the substance but had made it clear that they had no knowledge that this was a banned substance, why was no significant fault still not appropriate in those circumstances?

Mr McDevitt: They said that they were injected with Thymosin.

Senator DI NATALE: But they are not chemists; these are kids. They are 19-year-old kids.

Mr McDevitt: They are not kids. They are not minors. They are not children. They are fully-grown adults.

Senator DI NATALE: Yes.

Mr McDevitt: They are fully-grown adults who receive education on multiple occasions—

Senator DI NATALE: Most doctors do not know what Thymosin is. How do you expect a young footballer to know what it is?

Mr McDevitt: Their education is about personal responsibility for what goes into their bodies.

Senator DI NATALE: I get that. But getting back to the no fault significant fault issue, my issue is this—and it is similar to Senator Back's in a way—these are young players. They do not understand pharmacology and, as I said, a lot of this stuff here is hocus pocus. They are given a reassurance. You were saying early on no significant fault and then something changes where you throw the book at them.

Mr McDevitt: Hang on. When you say I said 'no significant fault', I said to them—

Senator DI NATALE: that it would be appropriate—

Mr McDevitt: No, I said to them: 'If that was the case, come forward and tell us. Tell us fully what did happen, and if you can establish no significant fault then that would lead to a reduction in the penalties.' If they had all the questions—

Senator BACK: They would have been better to have said nothing, wouldn't they?

Mr McDevitt: Why didn't they go to a doctor?

Senator BACK: There are others outside the 34 but they are laughing their heads off.

Senator DI NATALE: What do you mean 'Why didn't they go to the doctor'?

Mr McDevitt: Why wouldn't you ask the doctor? You said they do not know about pharmacology, so if they do not know about pharmacology—

Senator DI NATALE: These are young people in a professional sporting environment being given something that they are told is going to help their performance. You quote Stephen Dank as an expert in terms of what this stuff does. They are in a sporting environment with a whole sports science department behind them. They are being given information saying this stuff is legitimate. Why on earth would you go to the doctor? I do not understand. It does not follow.

Mr McDevitt: Sorry, why didn't they go to the doctor?

Senator DI NATALE: You are saying, 'Why didn't they go to the doctor?' Why should they?

Mr McDevitt: Senator, would you let someone come up and give you multiple injections and say, 'Don't worry; it's all good'?

Senator DI NATALE: If I were a 20-year-old getting my dream job, with a sports science department behind me and a coach saying, 'Look, this is absolutely fine. It's all legitimate; it's by the book,' why would I go to the doctor? That is a ridiculous proposition. Most people go to the doctor when they have an injury, when they are unwell. We have the sports science department giving them supplements. That is not a trigger to go to the doctor.

Mr McDevitt: The sports science department—Stephen Dank?

Senator BACK: But we did not know about him at the time.

Senator DI NATALE: This is all well and good in retrospect. I know this sounds like it is a personal attack. I get that you have to implement what is a very rigid code. But, again, I am of a similar view to Senator Back's. You say ultimate liability rests with the players. Do you actually think it is fair?

Mr McDevitt: Yes, I do. And the reason I think it is fair is that it is fair to all of those thousands of athletes in hundreds of sports who run onto the field and expect it to be a level playing field, and do not want to run onto the field with somebody else who has got substances pumping around in their body that are promoted for quick recovery but make them bigger and stronger than the rest of us.

Senator DI NATALE: Substances that they do not know are actually prohibited substances. Let's not forget that small detail.

Mr McDevitt: But it is their job as athletes, as professional athletes, to make it their business to know. That is the cornerstone of the code and it is there for good reason. Yes, it might be seen to be strict, but it is strict and absolute. You ask any professional athlete anywhere on the globe. That is why this is so heavily subscribed across the world. Athletes want to be in a fair, square sport. If the athlete gets injections, the athlete must be asking the question 'What is it that you are injecting into me?'

Senator DI NATALE: Let me ask you just a couple more questions. One thing that has again struck me as a gross inconsistency here is that you have got one tribunal that uses a particular standard of evidence and then you have got another tribunal that uses a totally different standard of evidence. I think it was described as chain versus strand, but basically it is a different standard of evidence and proof. Why do we have that? Isn't that a problem with the process?

Mr McDevitt: No. The standard of evidence was the same for the tribunal and for CAS and is the same for all sporting tribunals. The standard is comfortable satisfaction. As I said, the comfortable satisfaction bar can move from—

Senator DI NATALE: Are you saying that you have got the same—

Mr McDevitt: The same standard, yes, but it is up to the panel adjudicating to apply that bar correctly and appropriately in the case. What has happened here is that they have started with the same standard of proof, but WADA and I both felt that it had not been applied correctly by the AFL tribunal, and the Court of Arbitration for Sport also believed it had been—

Senator DI NATALE: That is different to the analysis I have seen. You are saying that the AFL Tribunal got it wrong, but they are using exactly the same process for determining guilt.

Mr McDevitt: You have brought in a couple of different issues. One is the standard of proof to be applied—the lens that the adjudicator should look through, almost. That is the comfortable satisfaction lens, which was applied by both panels but set differently.

Senator DI NATALE: Hang on—applied by both panels but set differently? That is a different process.

Mr McDevitt: This is where it is slightly complicated. Let me try to explain it a little bit. If you were to say, for example, that something is adjudicated beyond a reasonable doubt, it means that you are saying with 95 to 98 per cent certainty that this is probably what happened. If you are saying 'on the balance of probabilities', you are saying that there is about a 60 per cent possibility that this happened. The difficult thing with comfortable satisfaction is it actually moves in between those, depending on several factors, including likely penalties, severity of the offence and so on. That was the level of accountability that both panels were expected to apply in this case.

The other factor that is slightly confusing is the way the evidence is presented. This is the links-in-the-chain approach versus the strands-in-the-cable approach. I do not want to get too bogged down, but I gave an example earlier. The tribunal used the links-in-the-chain approach, and said, 'You must prove where the Thymosin Beta-4 came from.' The Court of Arbitration for Sport said, 'That is wrong; you don't have to prove that at all.' In fact, if you had to prove that in every anti-doping case, it would be almost impossible.

Senator DI NATALE: Why the difference between the two?

Mr McDevitt: The other way of looking at this is that, as you know, Senator, in every walk of life—whether it is a criminal jurisdiction, commercial courts, international courts—quite often you will get different panels looking at the same evidence through presumably the same lens and coming up with very different conclusions.

Senator DI NATALE: Sure, but we are not describing that. You have already said that there were different thresholds applied. We are not talking about that; we are talking about different thresholds.

Mr McDevitt: No, we are talking about comfortable satisfaction.

Senator DI NATALE: You just said one is 60 per cent; the other is 80 or 90 per cent.

Mr McDevitt: They are two other thresholds—balance of probabilities and beyond a reasonable doubt. The criminal jurisdiction uses beyond a reasonable doubt; sports use comfortable satisfaction. I did not invent it, but it moves in between those two.

Senator DI NATALE: I want to ask about the Cronulla players. Why hasn't the NRL issued infraction to those five former Cronulla players who declined to plead guilty in 2014?

Mr McDevitt: I have asked the NRL the same question.

Senator DI NATALE: Okay, so it is a question for the NRL. Why did you take no action against the four Essendon players who signed the consent forms to be administered with Thymosin Beta-4, but then said they did not receive injections from Dank in 2012.

Mr McDevitt: They were not proceeded against.

Senator DI NATALE: Why not?

Mr McDevitt: This was about gathering sufficient evidence to be able to proceed.

Senator DI NATALE: So they were just smart by saying they did not get the injection?

Ms Perdikogiannis: Those players did not disclose that they had had no injections, and there was no evidence to the contrary.

Senator DI NATALE: So they may have had the injections, you just did not have evidence—

Ms Perdikogiannis: Of that fact.

Senator DI NATALE: —to support that, whereas you had evidence that others did?

Ms Perdikogiannis: That is right.

CHAIR: Are you telling us that the people who were found guilty self-incriminated?. I am at a loss to understand the difference between them and the ones who were let off—I think you said they had received injections?

Ms Perdikogiannis: They had signed consent forms, but denied receiving injections. There was no other contemporaneous evidence, either in the text messages or material gathered from Essendon's server, that indicated anything to the contrary.

Senator BACK: So the message for the 34 was, 'They should have gone down the path of their colleagues, shouldn't they?' You would not be here today—and they would not be guilty today—if they had not self-incriminated. Am I correct in that assumption?

Mr McDevitt: I would not assume that, Senator. There are two issues: was there a possible violation and does it warrant action? There was an evidence-gathering exercise which included multiple elements, including player's interviews and also other paths. We proceeded against the 34 where we felt that we had sufficient evidence to proceed. Subsequently, that decision has been confirmed and validated by the Court of Arbitration for Sport.

Senator BACK: I have one last question. I will tell you what I am on. Are you on any pharmaceuticals at all?

Mr McDevitt: No.

Senator BACK: You are not on any?

Mr McDevitt: No.

Senator BACK: I am. I am on ramipril, caduet and cartia. I have to say to you, I am a veterinarian. I am on those pharmaceuticals as a result of advice from my doctor, and the chemist prescribes them. I have never gone to have a look at the pharmacology of those three. I trust the advice of my doctor and my chemist. I am at a loss to understand how you would say that an 18-year-old should. I spoke recently to John Worsfold, who was the Eagles coach—he is now the Essendon coach—and a pharmacist. I put to him the question, 'Would an 18-year-old kid in the Eagles have challenged you, John, if you had said, "This is okay to use" when you are a senior coach and you happen to be a pharmacist?' I am at a loss to understand how you would think that an 18-year-old or 19-year-old would go past the doctor and the pharmacist, having gotten something in writing from his club, presumably signed by the doctor to say it was legal to use. I cannot understand it.

Mr McDevitt: This is the problem, Senator: in your situation those medications were, you just said, given to you by the doctor. That is not the case here. That is not the case at all.

Senator BACK: But the doctor oversaw it, didn't he? The club doctor oversaw it.

Mr McDevitt: No, the club doctor was totally in the dark. That is the difference between your situation and this. Why was the club doctor kept totally in the dark? I know you probably would not take anything that was not given to you, as you just said, by your doctor. In this case, the doctor was kept in the dark. It was not given to them by the doctor.

Senator BACK: So in terms of this particular brew which probably aids to recovery, Gatorade, do you think it shouldn't be used? It helps in recovery or rehydration.

Mr McDevitt: Gatorade is not on the banned list.

Senator BACK: Was this?

Mr McDevitt: This was.

Senator BACK: At the time?

Mr McDevitt: Thymosin beta-4 is on the banned list.

Senator BACK: Was it then?

Mr McDevitt: Yes. You would not believe the level of education that is delivered to these people by the AFL and by us, constantly and regularly, about their personal responsibility. I know people say, 'The club said to do it or someone else said to do it.' You just cannot shift that personal responsibility to anybody, full stop.

Senator BACK: And to finish someone's career is appropriate in terms of a penalty?

Mr McDevitt: That education program tells them very clearly what the penalties are. There are significant consequences for going down this path—and for very good reasons. If you have players running onto the field and playing against 17 other teams, what do you say to the other 17 teams about a team that has embarked on a program designed to make them bigger, stronger and recover more quickly?

Senator BACK: The difference—and you can speak about Olympic sports, et cetera—is that athletes are drug tested and if there is a positive the sample is split to an A and a B sample. If the A sample is found to be positive the due process requires that they are advised. The B sample is either analysed by a separate laboratory or—more likely—they get the chance to nominate someone to oversee it. So in all of those cases you have the due process of the law, haven't you? You have a drug or chemical—call it whatever you like—that is known to have a performance-enhancing effect that has been found to be in the body and nobody can argue the guilt of that person. But this is a totally different circumstance, isn't it?

Mr McDevitt: What you have said—and you have described very well the processes for an adverse analytical finding—

Senator BACK: Correct.

Mr McDevitt: You have described that beautifully; that is exactly what happens when there is a positive test.

Senator BACK: That is right, but we are not dealing with that, anyway.

Mr McDevitt: We have averaged two positive tests per month for roughly the last five years in this country. But what we also have is the fact that in more than 30 per cent of our cases there has not been a positive test. The issue with a lot of these substances now is that there are masking agents. The substances exit the body very, very quickly, and that is why testing needs to be at the forefront.

Senator BACK: We all know the challenges of getting a positive test.

Mr McDevitt: The lack of a positive test in no way shape or form means that an athlete is not cheating. That is what I am saying to you.

Senator BACK: With respect, and I will finish there—I am sounding cynical, but I do have to say it to you—I think the reason you went down the path of WADA rather than an Australian court of appeal, based on many years of experience in this space, is that you realised that an Australian court of appeal would have upheld the AFL decision. You do not have to comment on that. It is just my observation. It might appear cynical, but I think it is the case.

Mr McDevitt: I disagree, but in the interests of time—

CHAIR: Can I ask one quick one? Just for clarification: you said that thymosin beta-4 is on the banned list. Why is it on the banned list? Is it because it has not been tested or because it is known to be performance enhancing and unsafe?

Mr McDevitt: I would have to take it on notice. I suspect it will be a combination of both. I suspect it will be because it has not gone through a clinical trial—so it has not been determined to be fit for human consumption—on the one hand and, on the other, early science has most likely indicated that it does enhance performance. I suspect that for those two reasons it has probably been put on the banned list, but I will come back to you if that is wrong.

CHAIR: What is the tipping point with performance enhancing? There are a lot of things that are performance enhancing, but they are not all on the banned list—natural substances, all sorts of things, which help you perform better and help you recover better. Is it safety or is it how much it helps your performance?

Mr McDevitt: Again, it is a combination of both. My understanding is that the banned list is released annually. It is updated. There is a team of scientific experts who are brought together globally and they assess—because, obviously, hundreds and hundreds of pharmaceuticals and other substances come onto the market each year—and the list is updated. The list is promulgated annually. That is how it works.

Ms Perdikogiannis: If I may elaborate on that: WADA's list committee considers three criteria when deciding whether or not to include a substance on the prohibited list. Those are whether the substance is performance enhancing, whether the substance is dangerous to the health of athletes or whether the substance is against the spirit of sport. If the substance meets two of those three criteria then it is a substance that the list committee might resolve to put on the list. As Mr McDevitt said, substances that have not been approved for human use or veterinary use are prohibited. They are in what is known as the S-0 category. Thymosin beta-4 is a substance that is regarded as being one those peptide hormones and it is said to cause cell regeneration and blood vessel regeneration. But, as Mr McDevitt said, we can give more information on notice.

CHAIR: You said that it needs to meet two of those three criteria. So a substance could be safe, but if it is performance enhancing and it is against the spirit of sport it could be on the banned list. That seems a slightly nebulous term. What does that mean: against the spirit of sport? Gatorade clearly is not against the spirit of sport. It is seen as safe, perhaps slightly performance enhancing. Is it the degree to which it is performance enhancing that determines whether it is against the spirit of sport?

Mr McDevitt: The spirit of sport is about fair play, an equal field, a level playing field, and no athlete having an advantage. To be in breach of the spirit of sport means that somebody has an artificially induced advantage.

Ms Perdikogiannis: Potentially, a masking agent—so a substance that masks the evidence of a performance-enhancing substance in the body—might not of itself be performance enhancing, but it would be against the spirit of sport because it was concealing the use of a performance-enhancing substance.

CHAIR: We are just about out of time. Senator Peris.

Senator PERIS: Mr McDevitt, I want to go back a few steps. On 13 February, was thymosin beta-4 on the ASADA banned list?

Mr McDevitt: It is not the ASADA banned list; it is the WADA banned list.

Senator PERIS: Was it on the ASADA banned list or the WADA banned list?

Mr McDevitt: We do not have our own list. We all use the one list. It is brought together, then experts look at it each year and it is put out each year. All subscribing countries and sports use the one list—other than the NFL, for example, like we discussed before. They make their own list.

Senator PERIS: Did you say that came into play in 2006?

Mr McDevitt: I would have to double-check. The first iteration of the WADA Code came out in 2003. Our legislation was passed in 2006. I would have to take on notice when the list itself was first brought about.

Ms Perdikogiannis: There have been lists around. The IOC, for instance, had a list of prohibited substances and methods. The first WADA list, I believe, was in 2003. We apply the WADA list. That gets published and distributed every year by the World Anti-Doping Agency, and that is the list we apply.

Senator PERIS: A few things have changed. Back in my day as an athlete, I was drug tested by ASADA and WADA, depending on my world ranking. Are you saying that all sports in this country are subject to WADA drug testing?

Mr McDevitt: We have 85 sports. It will not be all sports. I think there are some sports who are not compliant.

Senator PERIS: Who determines the sports that are not compliant to that?

Mr McDevitt: The sports themselves determine whether or not they want to apply to be part of this framework and to have a compliant anti-doping policy. Most sports want their sport to be clean and fair.

Senator PERIS: If it is the World Anti-Doping Agency, do you agree that you should be an international sport to have it apply to you? Or are you saying that we should have a blanket approach for all sports?

Mr McDevitt: I come back to this: it is up to how the sport administrators feel about having a level playing field for their sport.

Senator PERIS: The positive tests that came back—how many of those actually tested positive?

Mr McDevitt: I said earlier that there is no test for detecting artificial thymosin beta-4. There is no test itself at this point in time.

Senator PERIS: But it is a banned substance?

Mr McDevitt: It is on the banned list, yes. Where it gets a little bit confusing is that we all have thymosin beta-4 in our bodies anyway. When I say that there is no test, it is that we cannot at this point in time differentiate between the endogenous TB-4 which we all produce and that additional TB-4 which might be artificially administered. That is the test that is missing at the moment.

Senator PERIS: You are saying that we have that naturally occurring in our body. The point I am making is that there was a lot of commentary about no-one going to the doctor. To me, with my sporting background, I would go to see our team doctor if I was sick, but you have a sports science unit. I know that having ice baths, for example, helps with your recovery. Protein shakes, as we know, can contain amino acids which help with recovery. Athletes are provided protein shakes through their sports science unit. If you are a player excited about playing AFL—it is your dream job—and you are told that to help with your recovery you are going to be taking a substance that occurs naturally in your body anyway, do you not agree that it is a harsh penalty?

Mr McDevitt: Senator, can I ask you: in your career, did you get injections on multiple occasions?

Senator PERIS: We did. When we went to India and we went overseas, we would all have to line up, and the team doctor would come along and give us our flu injections.

Mr McDevitt: It was explained to you that it was a flu injection? Was it administered by a doctor or a trained professional?

Senator PERIS: The flu injection was administered by—yes.

Mr McDevitt: So you would have had the comfort and knowledge, and you would have done the personal research knowing your responsibilities about what was going into your body as a professional athlete. You would have asked the questions. You would have said, 'This is the flu injection?' and presumably it would have said that, and someone would have told you that, and you would have been comfortable that what you were getting was for the flu.

Senator PERIS: That is correct. I guess I am saying they were in an environment where they were told that what they were doing was the right thing to do.

Mr McDevitt: Well, they were told not to tell anybody. When you were an athlete, were you ever told, 'Hey, you know these injections you are going to get, just don't tell anybody about that'? Were you ever told anything like that?

Senator PERIS: No.

Mr McDevitt: Would that have worried you?

Senator PERIS: No.

Mr McDevitt: It would not have worried you?

Senator PERIS: I know who the senator being questioned here is. Does ASADA believe that the current antidoping framework in Australia is working well, enough to cater for the AFL and other team sports?

Mr McDevitt: Absolutely.

Senator MADIGAN: Mr McDevitt, you refer to this WADA list of banned substances. I have been trying to find where this list is. For the benefit of the committee, could you point us to where this list is, because I am having difficulty finding this list that you have referred to tonight.

Mr McDevitt: I will give you the link.

Senator MADIGAN: Also, for the benefit of the committee, is ASADA able to furnish the committee with screen shots of the banned substances over the past five years, between 2010 and the present day?

Mr McDevitt: Essentially that will be copies of the list. Yes, I think we can get that for you.

Senator MADIGAN: And also tell us where we can get those ourselves—

Mr McDevitt: Sorry?

Senator MADIGAN: where the committee can access the lists of the banned substances from 2010 to the present day.

Mr McDevitt: It is on the WADA site, which is all part of the education program that goes to all the athletes. They all get education programs showing them exactly where the list is, but we will make it available to you.

Senator PERIS: Does James Hird have any further appeal rights over the ASADA matter?

Mr McDevitt: James Hird, as you know, initiated action against ASADA to the Federal Court asserting that the investigation was flawed and illegal. The investigation was held by Justice Middleton to be entirely legal, lawful and appropriate. Mr Hird then exercised another appeal opportunity, or right, to go to the full bench of the Federal Court. We then had a unanimous finding by the full bench confirming the earlier finding, so he has exercised a number of appeal rights in this matter already.

Senator PERIS: Does he have any further?

Mr McDevitt: I do not know what you mean. To appeal what? He has not had a violation substantiated—

Senator PERIS: Does he have any further right?

Mr McDevitt: As I say, he has exercised quite a few appeal rights. We talk about how long this thing has gone for. That is one of the contributing factors.

Ms Perdikogiannis: Mr Hird could have sought special leave to appeal to the High Court against the ruling of the full Federal Court, but he elected not to do that.

Senator MADIGAN: Could you show us where TB4 is specifically mentioned on those lists of WADA from 2010 to the present day?

Mr McDevitt: I will take that on notice.

Senator MADIGAN: Thank you.

CHAIR: I just remind senators that written questions on notice should be provided to the secretariat by close of business on Friday, 4 March 2016. Thank you, Minister. Thank you, Mr Bowles, Mr McDevitt and all our officials.

Committee adjourned at 18:24

Transcript

Station:	**CANBERRA CONFERENCE UNIT**	Date:	**12/01/2016**
Program:	**BRIEFING**	Time:	**07:56 AM**
Compere:		Summary ID:	**C00064518317**
Item:	**QUESTION AND ANSWER SESSION WITH BEN MCDEVITT (ASADA).**		

Audience:	Male 16+	Female 16+	All people
	N/A	N/A	N/A

QUESTION: Mr McDevitt, ASADA copped significant criticism when the AFL Tribunal did clear the Essendon players. Do you feel vindicated today?

BEN MCDEVITT: I made it quite clear that I felt when the AFL Tribunal decision was issued, that - and I think I said at the press conference after that, that my sense was an appeal was a live option, and my sense was that this particular journey was far from complete. I have nothing to say in a disparaging way about the integrity of the persons who sit on the AFL anti-doping tribunal. I believe they are all people of great personal integrity. They made a decision which I believe was incorrect, and which I believe needed to be challenged.

Beyond talking about this particular case and that particular tribunal, I hold a very strong philosophical view that sports, any sports, in matters such as this should not police themselves. I believe that it puts the sport in an incredibly unenviable position whereby there is an inherent opportunity for potential conflict of interest for a sport at the one time to be responsible for promoting the sport and policing the sport. That's my personal philosophical view and I think you'll find

that there are a number of inquiries which support that and which make recommendations, and you look internationally now and you'll see there have been a number of pushes for sports to be placed in a position where they assist with governance, they assist with identifying and dealing with allegations of this type, but that we need truly independent review and arbitration.

QUESTION: I read some strong criticism about the players. Are you satisfied with the 12 month ban effectively or do you think maybe lifetime bans should have been considered for some of them, and should Jobe Watson lose his Brownlow Medal out of this?

BEN MCDEVITT: Well I think the first point is just to dispel a myth that seems to be out there generally, and that is one that ASADA actually determines penalties. ASADA doesn't actually determine penalties. Penalties are actually determined by the sports themselves, unless a matter goes beyond the sport, such as in this case to the Court of Arbitration for Sport, where they actually determine the penalty. Do I think that lifetime bans should apply here? No, I don't, and the world anti-doping code does not contemplate that sort of penalty for this form of violation by an athlete.

It does, for example, contemplate that form of penalty for the sort of activities alleged to have been undertaken by Mr Stephen Dank, and as you can see there, he has been given a lifetime ban, although I hasten to add that that is subject of appeal. In relation to Jobe Watson's Brownlow Medal, it's not up to me to

voice any view on that. That's entirely a matter for the AFL.

QUESTION: The Players Association, even after this decision said they don't have a great deal of faith in the WADA regime and that ASADA was part of that. You talk about moving on and working with the AFL to go on from this; how does criticism like that, even after CASA's decision, where does that put ASADA?

BEN MCDEVITT: Look, I have found Gill McLachlan and the AFL and their integrity team good to work with in terms of adherence to the code, the world anti-doping code. It's not a perfect code. It's in its third iteration, it takes a long time for submissions - and hundreds of submissions are received from sporting bodies and governments and everything else in each iteration of the code. You know, it's fair to say that I think it's always going to be a work in progress. But I defy anybody to say that it's not suited to team-based sport, because there's lots and lots of Olympic sports which are team-based sports. I do think that it's appropriate; I think what you've seen here is a system that, though it's protracted, has reached the right conclusion, and ultimately we are now at the end of the journey. I think the right outcomes have been released. The Players Association are entitled to express their view. We will continue to do what we can as an effective and ethical regulator that works within the framework.

I don't have any bias against any individual sport, team or athlete. We have 85 sports in this country which are subject to the anti-doping framework. I think I've said

previously that in the last 12 months in the order of 50 athletes from ten different sports have been subjected to sanctions under that regime. I think it's reasonably effective. But as I said earlier, I do think we can work to streamline the processes from alleged violation to their conclusion.

QUESTION: The bulk of these players are from- are still playing with Essendon. Some have moved on to other clubs now. Do you think it's fair these other clubs now have been punished because of the actions of the Essendon Football Club, in that they now can't use those players, some of them who are key players for them?

BEN MCDEVITT: Well, I mean look, that's a matter I guess for the clubs and the AFL. My only point would be that I think right through this matter, through the last three years, everything's been very transparent, very visible, and the media have - there's been very comprehensive coverage, so I would assume that in any transaction of movement of a player, all parties would have probably been aware that there were some events that were possibly still unfolding.

QUESTION: Is ASADA resourced and funded well enough to meet public expectations?

BEN MCDEVITT: That's a good question, you'll never see a CEO of any government agency say that they could do with less resources. That would be my first point. We have shifted our focus quite considerably over the last 18 months or so, away from being an agency which is test centric in terms of collection of blood and urine - not

that that's not still a very important tool in an anti-doping agency's armoury - across to more effort into investigations and intelligence, so that our testing program is then much more targeted, so that we are testing for the right substance, the right athlete at the right time. And so I think to that extent, we've got the balance about right, but of course I wouldn't say no to any more resources, if they came to be offered to us.

QUESTION: Are you confident that the AFL will remain a signatory and not go down the road of American baseball or NFL and not be a signatory to WADA?

BEN MCDEVITT: Well in all of the discussion that I have had with Gill McLachlan, this has come up on a couple of occasions, and Gill's always expressed to me a commitment to clean sport and to the AFL maintaining its position within the WADA and ASADA anti-doping framework. That doesn't mean that Gill, as with other sports administrators, might not want to try to influence the framework and its direction, and that's fair and reasonable and there are opportunities for that. But Gill's shown a real preparedness to work with us and to keep target hardening their sport, which is what we want to do.

QUESTION: When this story broke it was labelled the blackest day in Australian sport - do you agree with that assessment? And secondly, there were suggestions that there were links to organised crime in terms of some of the provisions of the prohibited substances. What's your view on that link now?

BEN MCDEVITT: My personal view is that the term blackest day in sport was, you know, sort of not helpful, and hasn't been helpful in any way throughout this. I believe- my personal view is that the release of the report and the manner of the report, and the manner in which it was released was ill-conceived and ill-timed, and I believe it placed this agency, ASADA, in an extraordinarily difficult position, where it had to commence investigations where clubs were named within 24 hours, and where it then had to go about collecting evidence under the glare of a media spotlight. That is not the way - that's totally opposite to the way that an anti-doping organisation would not work- would work.

In relation to the report itself, I think that there was - whilst I think what you've got is a message and then a message delivery system - I've just said my view about the message delivery system - I think the message itself, the report itself, the Aperio report has a lot of integrity. I think you've seen that through - you know, we have now had multiple violations proved in two different sporting codes. As I've said, we've had over 50- around 50 athletes sanctioned across ten different sports in the last 12 months. We've had significant surges in the seizures of peptides and steroids at the border in the last 12 months, significant increases in those seizures.

We have had significant increases of arrests for steroids. We've had an absolute surge of young people engaging in peptide use and performance enhancing and image enhancing substances. Not all for performance enhancement, and quite often seems to

be the case that it's more about image enhancement. But at the end of the day I think where we are now has shown that there were definite elements of fact and truth lying within the intelligence in that report.

QUESTION: The Health Minister Sussan Ley has come out with a statement today claiming the- which refers to the previous Labor Government in that blackest day in sport, and the media treatment of that report at the time, and blames the previous government for prolonging or dragging out this investigation. What do you have to say about that?

BEN MCDEVITT: Well it's not for me to get involved in politics. My comment was - and is - that I do believe that the release was ill-conceived and ill-timed in terms of ASADA, the agency - and don't forget this was 18 months before I got to ASADA - but I think it obviously placed ASADA in an extraordinarily difficult position in terms of it being then able to actually do its job, and determine whether or not some of the things that were being spoken about had a factual basis behind them.

QUESTION: Do you think it dragged out the investigation though, the political handling of that?

BEN MCDEVITT: Look, there were multiple reasons I think why the actual investigation took as long as it did, and don't forget, you know, one of those - and a number of these reasons have been accepted by the Court of Arbitration for Sport, and in the- and by the NRL Tribunal in relation to the Cronulla matters. It did take time, for

example, for ASADA to be able to - for the passage of legislation to go through Parliament so that ASADA could be armed with the sort of powers that it needed to conduct this sort of investigation. And that's just one example.

QUESTION: What about James Hird's role in all of this? What do you think about him, he's a legend of the game, what do think- how do you think football will view him now?

BEN MCDEVITT: Well I don't- I mean, that's up to the spectators, the fans, the AFL, and the club, as to how - you know, the history books will portray James Hird. Thanks very much.

*** * END * ***

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HOT ISSUEs BRIEFS	
No.	**Title**
1.	Matters raised by Senator Madigan - Bock & Robinson; Document release; Essendon 34
2.	TB4
3.	QoN SQ16-000248 – Madigan – clear and unambiguous access to the WADA banned substances list
4.	QoN SQ16-000258 –Peris - Discussions between Minister for Sport and ASADA
5.	QoN SQ16-000271 – Back – Assurance from Essendon football club
6.	QoN SQ16-000272 – Back – Testing of Essendon 34
7.	QoN SQ16-000273 – Di Natale – Evidence program boosts recovery
8.	QoN SQ16-000274 – Seselja – Why is TB4 on banned list?
9.	QoN SQ16-000275 - Peris – First iteration of prohibited list
10.	QoN SQ16-000276 - Madigan – Access to Prohibited list and reference to TB4
11.	Cronulla x 5 - status
12.	Cost of Cobia investigation to date (including legal costs) & Financial and other support to WADA by ASADA (to date)
13.	Pre-Olympic and Paralympic anti-doping programs
14.	Budget measures
15.	Activities by Essendon players while suspended
BACKPOCKET BRIEFS	
16.	Key statistics of ASADA's operations
17.	Agency budget and financial situation (includes attachment)
18.	GlobalDro – why has ASADA got rid of Check Your Substances?
19.	Agency staffing
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ADMINISTRATION	
22.	Budget Estimates Program
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24.	Access to Parliament House
25.	Government Guidelines for Official witnesses
26.	Parking information
27.	Transcript – Ben McDevitt press conference/ CASRO speech

BUDGET ESTIMATES HEARING—6 MAY 2016

Brief Number 1

Brief Title: Matters raised by Senator Madigan

KEY POINTS

IS ASADA GOING TO COMPLY WITH THE ORDER OF THE SENATE TO PRODUCE DOCUMENTS?

- ASADA has received preliminary legal advice from the Australian Government Solicitor in relation to Senator Madigan's Motion for the Minister to table documents before the Senate.

- According to that advice, "it would be imprudent of ASADA to hand the subject documents over to the Minister for the purpose of them being tabled in the Senate by the stipulated deadline. This is because, in the present circumstances, serious doubts attend the lawfulness of any voluntary disclosure of the subject documents by ASADA to the Minister".

- I do not intend as CEO of ASADA to risk acting unlawfully by disclosing documents inappropriately.

- Section 24 (2)(a) of the *ASADA Act* provides that a Ministerial Direction 'must not relate to 'a particular athlete or a particular support person who is subject to the NAD scheme'.

- If I was directed to make a disclosure, I would need to obtain further legal advice on that specific matter. Prior to seeking that advice it would be necessary to consult with relevant stakeholder Departments.

WHAT ARE ASADA'S REASONS FOR NOT WANTING TO RELEASE DOCUMENTS TO THE SENATE COMMITTEE?

- I respect the Senate and its interest in this matter, but the fact remains that there are a lot of other considerations to be taken into account by ASADA prior to any information being disclosed. For example:

    - The documents listed in the motion contain information that is relevant to current ongoing matters and possible future matters. By way of an example, ASADA is currently involved in a *de novo* hearing regarding Stephen Dank's appeal to the AFL Appeals Board. The disclosure of the documents that have been requested could prejudice that matter and others. As CEO of ASADA my view is that we should not prejudice any ongoing matter, but in particular the matter that involves the person whom the AFL Anti-Doping Tribunal banned for sport for life.

    - The investigation reports listed in the motion contain sensitive personal information about a variety of

individuals (including non sports people that were witnesses to events). The disclosure of sensitive personal information is contrary to both ASADA's legislation and WADA Privacy standards which ASADA is also bound by. The anti-doping framework in Australia and globally takes steps to protect the personal information of individuals. If ASADA were to disclose such information it is probable that other anti-doping organisations or sporting organisations will not share sensitive information with ASADA due to the risk of possible disclosure. This would seriously undermine ASADA's ability to perform its legislated functions.

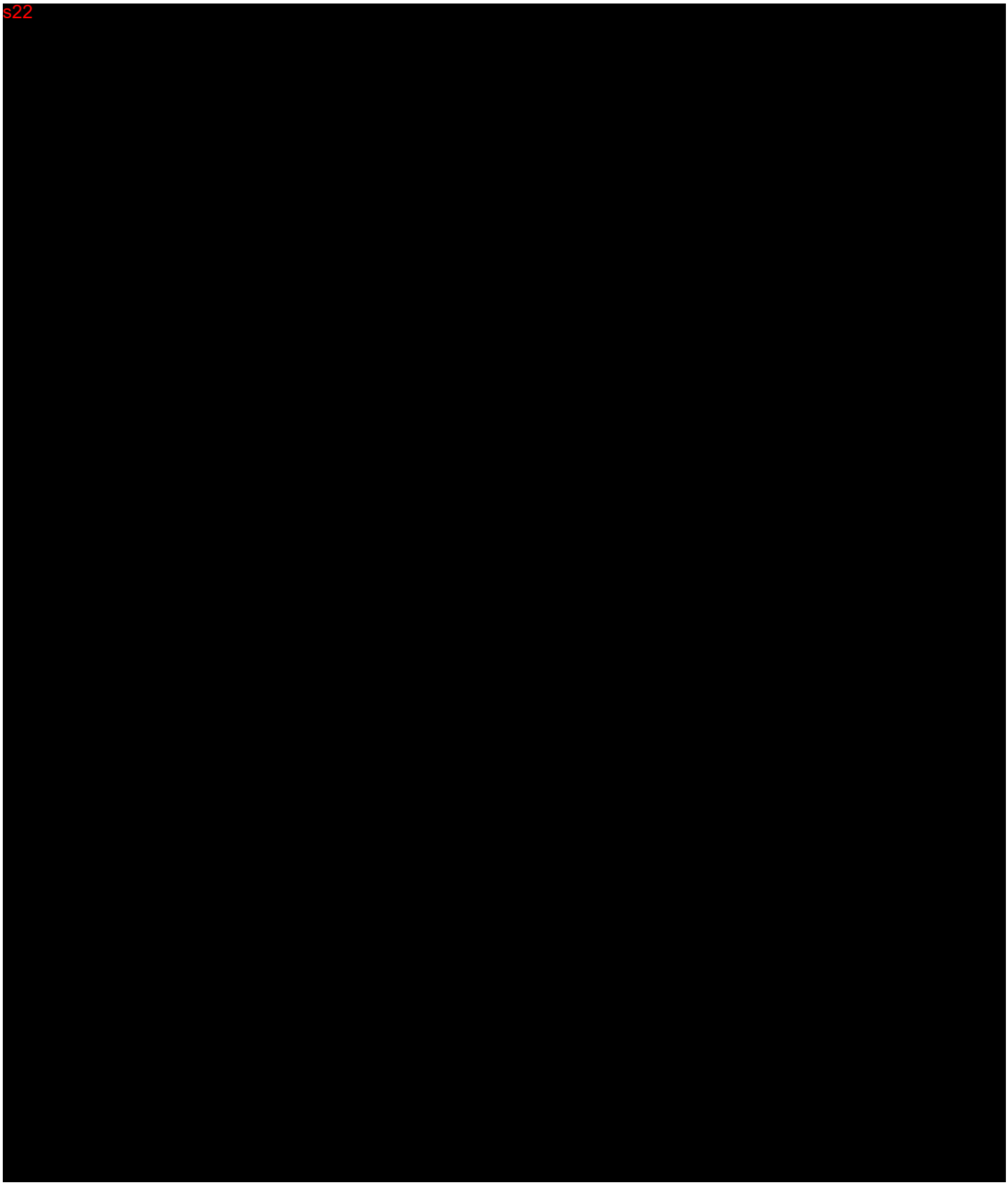
- The disclosure of ASADA's investigation reports, and other general documentation more broadly will almost certainly undermine ASADA's intelligence sharing arrangements with external agencies. For example, other Government Agencies and law enforcement bodies may decline to share information with ASADA as the protection and confidentiality of this information cannot be guaranteed. This has the ability to significantly impact on the ongoing operations of ASADA and its ability to investigate doping.

- Given the potential adverse consequences for ASADA and our ongoing matters, ASADA is not in a position to disclose these documents publicly.

BACKGROUND

- Senator Madigan's Motion #1157 was passed in the Senate at 16:41 on Monday 4 May 2016. A copy of the motion is contained at **Attachment 1**.

s22



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In relation to questions about the status of Bock or Robinson

- ASADA cannot comment on the status of or evidence in relation to ongoing matters.

BACKGROUND

- On 19 May 2015, the ASADA made a decision that based on material at hand, Mr Bock's matter did not warrant action.

- ASADA's decision was communicated to Mr Bock by way of a letter dated 29 July 2015.

- ASADA is currently assessing recent new comments made by Stephen Dank in relation to Mr Bock's matter. As the matter is ongoing it is not appropriate to comment further so as not to prejudice possible future proceedings.

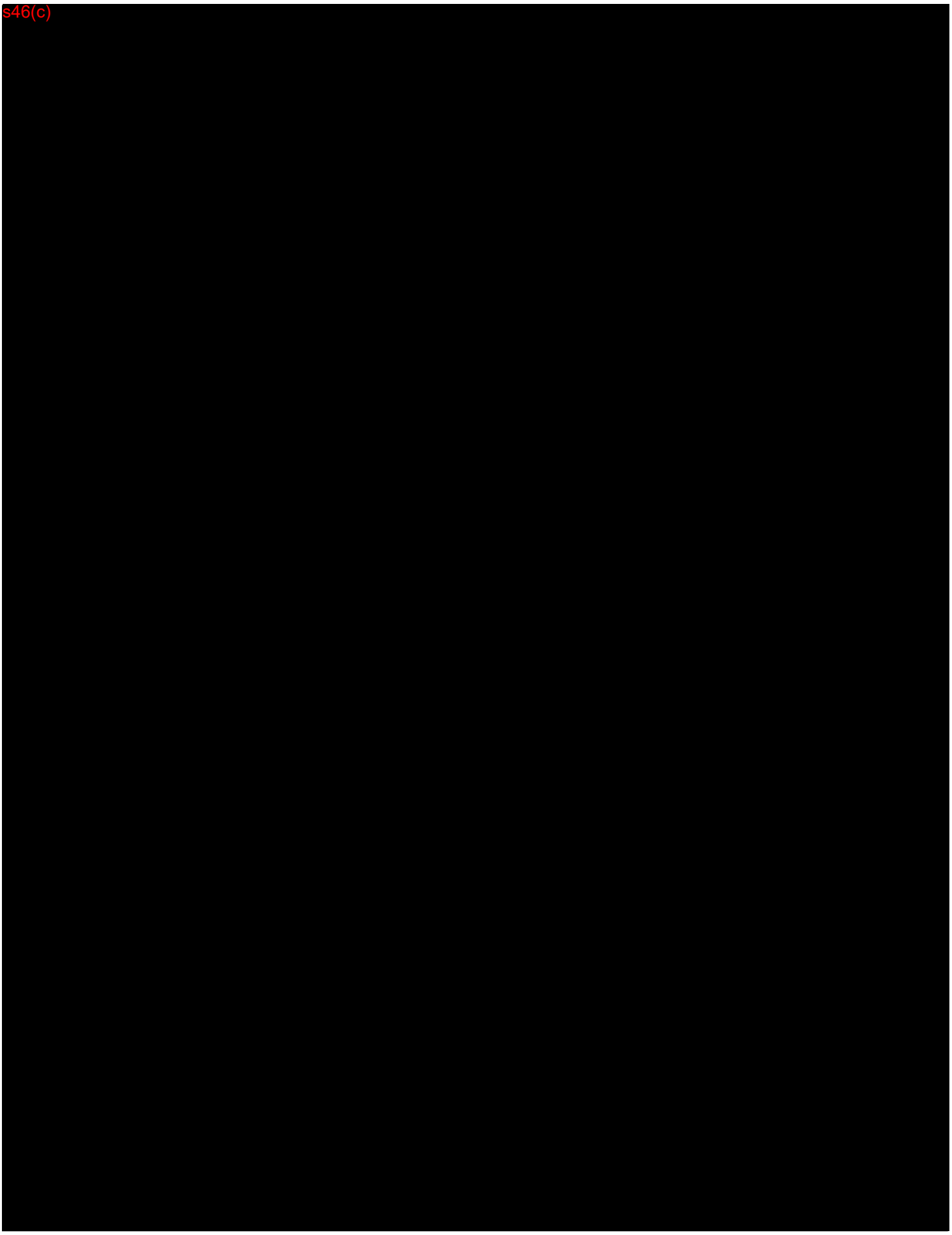
- ASADA has made media comments in relation to Mr Bock's matter and Mr Dank's recent comments (**Attachment 4**).

Author: s22 [redacted]

Executive Clearance: s22 [redacted]

Date Cleared: 5 May 2016

s46(c)



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BUDGET ESTIMATES HEARING—6 MAY 2016

Brief Number 11

Brief Title: Cronulla Sharks Players x 5

KEY POINTS

- ASADA has provided the NRL with all of the evidence in relation to these matters. ASADA understands that the NRL has issued Infraction Notices to all players.

- ASADA expects to be notified in the near future by the NRL of whether hearings will take place or what sanctions have been applied by the NRL.

BACKGROUND

- The Cronulla Sharks x 5 players are:
  - Paul Aiton (Leeds Rhinos);
  - Colin Best (retired);
  - Stuart Flanagan (Appin Dogs);
  - Ben Pomeroy (Catalans); and
  - John Williams (retired).

- The possible ADRVs are Use or Attempted Use of CJC-1295 and/or GHRP6 between about March 2011 and April 2011.

- The NRL have advised ASADA that they have issued 5 infraction notices to players. ASADA is yet to be notified of the

decisions made by the players with respect to hearings or sanctions.

s47E(d) s45

- The 12 Cronulla Players who were sanctioned for doping offences were:
    - Josh Cordoba (London Broncos);
    - Luke Douglas (Gold Coast Titans);
    - Paul Gallen (Cronulla Sharks);
    - Nathan Gardner (Cronulla Sharks);
    - Wade Graham (Cronulla Sharks);
    - Albert Kelly (Gold Coast Titans);
    - John Morris (retired);
    - Tim Smith (Wakefield Wildcats);
    - Kade Snowden (Newcastle Knights);
    - Anthony Tupou (Cronulla Sharks);
    - Broderick Wright (retired); and

  Matthew Wright (North Queensland Cowboys),

these players received twelve (12) month sanctions backdated to commence on 23 November 2013.

Author: s22 [redacted]

Executive Clearance: s22 [redacted]

Date Cleared: 4 May 2016

BUDGET ESTIMATES HEARING– 6 MAY 2016

Brief Number 15

Brief Title: PRACTICAL IMPLICATIONS OF SANCTIONS ON PLAYERS

KEY POINTS

- The conditions and rules for sanctioned athletes are complex and decisions are often dependent on the detailed circumstances. Each activity for players needs to be carefully considered and assessed on a case by case basis.

- Broadly, players cannot play, coach, attend official training sessions or meetings, use club facilities or be otherwise involved in any sport with World Anti-Doping Code compliant rules.

- Both ASADA and WADA have provided guidance to the AFL in relation to our views on what players can and cannot do whilst sanctioned. Ultimately, the power to enforce player sanctions under the AFL Anti-Doping Code is a matter for the AFL.

BACKGROUND

- On 12 January 2016, the Court of Arbitration for Sport banned 34 past and present Essendon players for 2 years, with sanctions deemed to commence on 31 March 2015.

- Sanctions were backdated taking into account periods of provisional suspensions served by players and delays not attributable to the players.

- Rule 22.1 of the AFL Anti-Doping Code 2015 outlines what players can and cannot do whilst ineligible. It provides:

  "(a) No Player or other Person who has been declared Ineligible may, during the period of Ineligibility, participate in any capacity in an AFL Competition or activity (other than authorised Anti-Doping education or rehabilitation programs) authorised by the AFL, Affiliated State or Territory Body or AFL Clubs, any Signatory or Signatory's member organisation or a club or other member organisation of a Signatory's member organisation, or in competitions authorised or organised by any professional league or any international or national level event organisation or any elite or national-level sporting activity funded by a government agency."

- Whilst ineligible a player also remains subject to testing.

- The comment to Rule 22.1 of the AFL Anti-Doping Code provides further guidance as to what players can and cannot do:

  > "For example, subject to clause 22.2, an Ineligible Player cannot participate in a training camp, exhibition or practice. The term 'activity' also includes, for example, administrative activities, such as serving as an official, director, officer, employee, or volunteer of the organisation described in this clause. Ineligibility imposed in one sport shall also be recognised by other sports."

- A player is allowed to return to training prior to their sanction ending. Essendon players can return to training in the last 2 months of their sanctions.

- There is no impediment to players seeing each other socially or engaging in other recreational activities. The players are allowed to train together as a group, provided however, that they do not train with other people who are covered by the AFL Code or use other AFL or club facilities.

- If a player violates the conditions surrounding their period of ineligibility, a new period of ineligibility equal in length to the original period of ineligibility will be added to the end of the original period of ineligibility.

- In addition to the sanctions listed above, some or all sport-related financial support or other sport related financial

support or other sport related benefits will be withheld by the AFL, AFL club and governments. There is no express provision in anti-doping rules that says that players cannot receive forms of payments whilst ineligible.

- ASADA has provided advice directly to the AFL, the Essendon Football Club and the AFL Players Association at various stages.

- ASADA is aware of media reports that suspended player Brent Prismall is working in a player welfare role at the Western Bulldogs AFL team.

s47E(d)

[redacted]

Author: s22 [redacted]

Executive Clearance: s22 [redacted]

Date Cleared: 2 May 2016