



SPORT INTEGRITY
AUSTRALIA

Sport Integrity Australia assessment
of allegations regarding the
**AUSTRALIAN FOOTBALL LEAGUE'S (AFL)
ILLICIT DRUGS POLICY**

JUNE 2024





ACKNOWLEDGMENT OF COUNTRY

In the spirit of reconciliation, we acknowledge the Traditional Custodians of Country throughout Australia and their connections to land, sea and community. We pay our respect to their Elders past, present and future and extend that respect to all Aboriginal and Torres Strait Islander peoples. We recognise the outstanding contribution Aboriginal and Torres Strait Islander peoples make to sport in Australia and celebrate the power of sport to promote reconciliation and reduce inequality.

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TERMS OF REFERENCE

PURPOSE

To assess allegations made in Parliament on 26 March 2024 by Mr Andrew Wilkie MP regarding the implementation of the Australian Football League (AFL) Illicit Drugs Policy and potential associated breaches of the AFL Anti-Doping Policy or World Anti-Doping Code (WADC).

MANDATE

Sport Integrity Australia (SIA) has the following authority and functions to undertake this assessment:

SIA is Australia's National Anti-Doping Organisation and has authorities and obligations to implement the WADC in Australia and enforce rules and policies relating to anti-doping. The authorities and obligations are outlined in the World Anti-Doping Code; *Sport Integrity Australia Act 2020*; and Australian National Anti-Doping Policy 2021. The WADC requires SIA to pursue all potential anti-doping violations.

SIA's role and functions as set out in the Sport Integrity Australia Act 2020, the Sport Integrity Australia Regulations 2020, including playing a national coordination role for all sport integrity related matters, investigating threats to sports integrity and providing assistance and advice to sports administrators.

IN SCOPE

To determine if there has been a potential breach of the WADC through any Anti-Doping Rule Violations by AFL players or support personnel.

To determine if there has been a potential breach of the WADC, specifically compliance by AFL as a signatory to the WADC.

To determine if there are any irreconcilable inconsistencies between the AFL Illicit Drugs Policy and the National Anti-Doping (NAD) scheme.

OUT OF SCOPE

This assessment does not include a formal or full assessment of the efficacy of the current AFL Illicit Drugs Policy.

ADDITIONAL OPPORTUNITIES TO BE CONSIDERED

While not included in the scope as the primary objectives of this assessment process, there is an opportunity to make independent observations or considerations to relevant stakeholders as it relates to addressing threats to the integrity of sport from illicit drugs (in line with SIA's role and functions). Any observations will be thematically collated and considered for inclusion in the final report.

OUTPUTS

Full Report to Government, relevant stakeholders and the public.

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1. PREFACE BY SIA CEO

DAVID SHARPE APM OAM

The Sport Integrity Australia (SIA) Assessment (Assessment) of the Australian Football League's (AFL) Illicit Drugs Policy (IDP) issues raised by Mr Andrew Wilkie MP in Parliament highlights a critical juncture for Australian sport. Issues raised relate to serious concerns around illicit drug abuse in the sport and allegations of 'secret' illicit drug tests being sanctioned by the AFL and AFL clubs to subvert SIA's anti-doping testing program.

While we acknowledge that there are no non-compliance issues in relation to the allegations raised and that the review provided an opportunity to suggest ways to strengthen the IDP, the Assessment does highlight a broader issue in the fact that all Australian sports have reached a crossroad in dealing with illicit drug use, player mental health and wellbeing and criminal infiltration of sport. Also, that significant intervention is required immediately to address the illicit drug culture in Australian sport and the increasing and unacceptable risks posed to all players, athletes, officials, clubs and sporting codes.

For a long time the AFL has had a dedicated Integrity Unit to address threats to players and the game posed by illicit drug use and criminal exploitation, through well-resourced, highly skilled capability and intelligence programs. Further, the AFL is one of the few sports to have implemented an IDP that addresses illicit drug use and uses a 'medical model' approach that ensures player confidentiality and wellbeing are at the forefront of their response.

The 'medical model' approach was first adopted by the AFL in 2005 and implemented with good intent. The model was based on the foundations of the Department of Health's National Drug Strategy (which has harm minimisation as a focus), external expert advice and consultation with the AFL Player's Association. The model focuses on managing illicit drug abuse, mental health, addiction and rehabilitation in a confidential manner in line with relevant privacy legislation. However, the very nature of medical confidentiality and associated lack of information and public facing education around the operating model, has led to perceptions of secrecy for more sinister motives, including brand protection and subversion of the World Anti-Doping Code.

The illicit drug landscape was different in 2005 when the AFL's IDP was first developed to that of today and dictates the need for an immediate overhaul of the current policy to bring it into line with current societal trends and increasing integrity and health threats in sport. SIA, along with Australian law enforcement and intelligence agencies, have identified ongoing threats of criminal infiltration of Australian sport through the supply of illicit drugs and subsequent exposure of athletes and support staff to exploitation. All sports with an IDP should consider utilising deidentified data obtained from their illicit testing programs to address trends and threats to close gaps in their systems that can be exploited by criminal elements.

All senior staff in the AFL community have a responsibility for developing a strong culture that educates and mitigates against illicit drug use by players. The attention of AFL intelligence capabilities should not just focus on players and testing, but address the integrity risks posed through illicit drug use by non-players in the sport.

The new AFL IDP should be considered within a broader operating framework that maximises opportunities to deter use of illicit drugs and threats through better utilisation of intelligence to protect players from real and live threats to integrity.

SIA strongly recommends development of a framework (see proposed model below) that incorporates an IDP with an Intelligence Program to identify and manage threats, and an escalation point to inform club Chairs/CEOs where concerns for the health and safety of players and staff can be addressed should they reach a serious or critical level. The AFL should incorporate the operations of the AFL Anti-Doping Policy

(as approved by SIA and the World Anti-Doping Authority (WADA)) to ensure the integrity of each program is maintained and maximise opportunities that exist through a single framework. This framework would be underpinned by the AFL's Education Program, which encompasses greater awareness and training across integrity threats, anti-doping testing and, importantly, operations of the IDP and medical confidentiality.

Developing such a framework is possible without jeopardising player confidentiality and the efficacy of the medical model. However, if all components of the framework are not aligned there is potential for criminals to exploit these vulnerabilities in the system.

SIA is committed to providing an education expert to assist the AFL in the development of the proposed framework as this presents an opportunity to strengthen the culture for current and future players entering the code. The framework will also ultimately benefit all sport in Australia, as an indicative model on how to address these growing issues in sport.

Critically, this Assessment by SIA is relevant to **ALL** sports in Australia. The AFL is not alone in its journey to stay ahead of the curve when it relates to illicit drug use in sport. SIA recommends Australian sports take heed of the lessons learned and issues raised in this Assessment and develop their own robust frameworks to address these threats. Consideration should be given to elements of independent oversight of any IDP (as highlighted below) to ensure good governance and transparency.

Sport has a critical role to play in social cohesion in our society. Sports, governments, medical professionals, educators, law enforcement and intelligence agencies must strengthen their partnerships in a nationally coordinated manner to put a ring around sport to ensure athletes are supported while also creating an environment hostile to criminal elements. The message must be sent now that sport is not open for exploitation.

Success relies on acknowledgment that we all have a role to play in protecting sport and this approach needs to be led by professional and Olympic/Paralympic sports who have extensive public profiles, including the AFL. Through the power of these sports' brands, they are in the driver's seat to lead cultural and behavioural change and reinforce positive attitudes from the grassroots to elite levels.

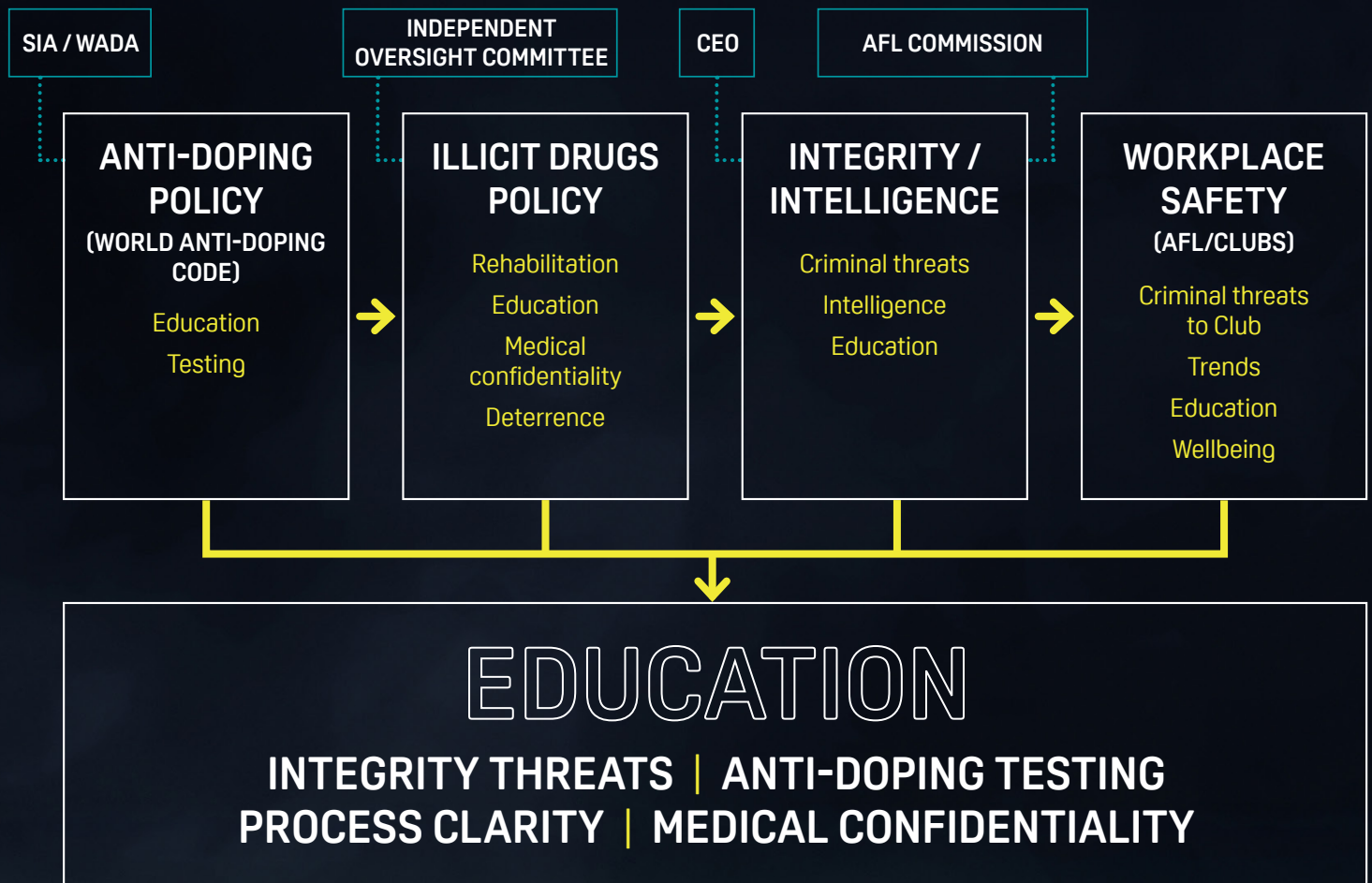
Sport Integrity Australia was established to deliver independent oversight and support to all sport in Australia and to nationally coordinate efforts to address integrity threats to sport. Our agency is committed to supporting all sports at all levels in Australia through provision of advice, guidance, support and educational resources to shape positive cultures to keep sport safe and fair for all.

Sport Integrity Australia will lead the way in coordinating a national response through key initiatives such as education and awareness programs for all levels of sport, while the new Sport Integrity Australia Law Enforcement Partnership Program (LEPP) will strengthen our understanding of key threats and work closely with sports to ensure appropriate frameworks are in place to repel these threats to the integrity of sport.

On behalf of Sport Integrity Australia, I would like to thank Mr Andrew Wilkie MP and those who offered their statements for raising their concerns to help strengthen the culture and integrity of the AFL and sport in Australia generally as a result, and ultimately improve the health and welfare of the players. I would like to thank WADA for their review of Sport Integrity Australia's interpretation of the relevant anti-doping rule violation provisions. I would also like to thank the CEO of Drug Free Sport New Zealand Mr Nick Paterson for providing support to Sport Integrity Australia through provision of experienced staff to ensure Sport Integrity Australia had independent oversight of this Assessment.

I would also like to thank the AFL CEO Mr Andrew Dillon, the AFL Player's Association CEO Mr Paul Marsh, the AFL Doctor's Association CEO Dr Barry Rigby and all those consulted throughout the course of this assessment for their candour, trust and commitment to seek ways to address illicit drugs in the AFL and enhance the health and wellbeing of all players. These contributions (deidentified to maintain confidentiality) have been integral to Sport Integrity Australia's assessment and all were clear that their intent was to make the game better and safer.

FRAMEWORK



2. BACKGROUND

THE ALLEGATIONS

On 26 March 2024, Mr Andrew Wilkie MP raised allegations in Australian Parliament about possible misconduct in the AFL related to its Illicit Drugs Policy. His, and the allegations highlighted in signed statements from those close to the concerns, centred on the abuse of illicit substances (such as cocaine) and so called 'off-the-books' testing being conducted to identify players using these substances and to ensure they were prevented from playing on game day if in any danger of testing positive under the SIA-led Code compliant anti-doping program. It was further alleged that the AFL has sanctioned this testing process.

Mr Wilkie's comments sparked considerable commentary and speculation within the media and broader public, as well as those with professional involvement in anti-doping. At least some of the commentary suggested the tests described in Parliament were a 'secret' testing process and that withdrawing players from matches as a result of test results, and purportedly under false pretences, was cheating and a clear breach of the AFL's own Anti-Doping Policy and/or the World Anti-Doping Code (WADC), to which the AFL is a signatory.

SPORT INTEGRITY AUSTRALIA'S ROLE

Under the *Sport Integrity Australia Act 2020* (Cth) and the WADC, SIA has the powers to investigate any matters relating to anti-doping. As such, the agency commenced a thorough assessment of Mr Wilkie's allegations of 'secret testing', including review of the associated statements and discussions with a range of relevant stakeholders to seek information on the AFL's Illicit Drugs Policy and its operation to help us to determine if it was in breach of the WADC or not.

Support for the assessment was received from the Prime Minister Anthony Albanese MP, Federal Minister for Sport Anika Wells MP, Mr Wilkie, and those who made statements and raised the concerns. The AFL CEO Andrew Dillon and AFL Player's Association CEO Paul Marsh both confirmed that their organisations would co-operate with the Assessment.

It should be noted that this Assessment focused on the allegations and material highlighted in the statements raised in Parliament, as outlined in the Terms of Reference. The assessment did allow us to identify a number of key issues relevant to the AFL's Illicit Drugs Policy and processes and wider issues relevant to all sports in Australia (in line with our role and functions), particularly around addressing the threat posed by criminal infiltration of sport when players are exposed to illicit drug use.

All those involved with this Assessment saw it as a positive opportunity to enhance current processes and practices and thereby increase player health, wellbeing and support, and in the process enhance the AFL and club cultures for all teams. This spirit of cooperation and goodwill was clear from all parties throughout the entire Assessment process.

LACK OF UNDERSTANDING

Some of the speculation noted above may have been based on unfamiliarity with the operation of the AFL's drug policies – one (the Australian Football Anti-Doping Code) which is approved by SIA and restricts players from using prohibited substances proscribed by the World Anti-Doping Authority (WADA) In-Competition, and the other (AFL Illicit Drugs Policy), a voluntary policy enforced by the AFL since 2005 and agreed to by the AFL Player's Association (AFLPA) and supported by the AFL Doctor's Association. The AFL is one of the few sports in Australia to have an Illicit Drugs Policy, which is very comprehensive and predominantly based on a confidential, harm minimisation model that is concerned with player welfare.

Compounding this, was a lack of understanding of the WADC and particularly around what constitutes 'In-Competition' and 'Out of Competition' testing, as well as the different testing procedures and the processes and implications if a person tests positive to a prohibited substance under the respective policies.

Concern was also created by a perception of secrecy around the drug tests, which we understand is about ensuring any substance use concerns by players are managed with confidentiality and discretion by the AFL and club doctors in accordance with the legal and ethical obligations of Australian medical practitioners and the AFL's Illicit Drugs Policy guidelines.

3. EXECUTIVE SUMMARY

ASSESSMENT OF POTENTIAL BREACHES

Part four of this report provides a thorough assessment by SIA of the allegations made in Parliament (and the associated statements) regarding the implementation of the AFL's Illicit Drugs Policy to determine if there have been any associated breaches of the WADC or the AFL's obligations as a signatory under the WADC. A summary of these findings is outlined below.

- 1) In relation to whether there has been a potential breach of the WADC by AFL players or support personnel, we assessed the conduct against the Anti-Doping Rule Violations (ADRVs) set out under the WADC. In particular, the ADRV's we found to be most relevant that required more detailed analysis were:
 - Article 2.3 – Evading, Refusing or Failing to submit to *Sample Collection* by an *Athlete*
 - Article 2.5 – *Tampering or Attempted Tampering* with any Part of *Doping Control* by an *Athlete* or *Other Person*
 - Article 2.9 – *Complicity or Attempted Complicity* by an *Athlete* or *Other Person*

Based on information available to SIA we concluded there were NO breaches of the World Anti-Doping Code through any Anti-Doping Rule Violations by AFL players or support personnel. WADA has advised SIA that it has no issues with SIA's interpretation of the ADRV's.

- 2) As a Signatory to the WADC, the AFL should comply with the WADC and the International Standards, this includes the International Standard of Education (ISE). Under the ISE, the AFL has a responsibility to educate players about anti-doping rights and responsibilities to ensure they are educated about the Code under which they operate.

While the AFL does have a 2023-25 Anti-Doping Education Plan that was developed based on the WADC guidelines for the ISE, as part of this assessment SIA found that the AFL's education on anti-doping and illicit drugs had declined since the Covid pandemic, as has education to lower tier/pathways players. There was recognition by the AFL and AFLPA that this needed to be rectified with more resources and focus dedicated to education at all levels.

As a signatory to the WADC, the AFL has mandatory obligations around anti-doping education. While the AFL does have a current Anti-Doping Education Plan, SIA has identified a need for the AFL to enhance its education program to all levels of the game.

- 3) In relation to whether there are any irreconcilable inconsistencies between the AFL Illicit Drugs Policy and the National Anti-Doping (NAD) Scheme, SIA acknowledges the policy operates separately from the NAD Scheme, and recognises while both ultimately aim to promote integrity in sport, they focus on different purposes (one being in relation to anti-doping obligations and functions, the other focusing on additional testing and addressing the problem of illicit drug taking Out-of-Competition). They operate under separate objectives and distinct frameworks.

SIA concluded that there are NO irreconcilable inconsistencies between the AFL's Illicit Drugs Policy and the National Anti-Doping Scheme.

The reasoning and conclusions for these findings and why they did not support the allegations made are listed in detail in Part four of this report.

KEY OBSERVATIONS AND CONSIDERATIONS

The terms of reference for this assessment focused on statements referred to in Parliament by Mr Wilkie, and our discussions and fact finding also provided an opportunity to share key themes and concerns raised about the AFL's Illicit Drugs Policy and operations (shared in Part five), and also a wider learning opportunity for all sports to address integrity threats to sport arising from illicit drugs. A summary of these observations followed by recommendations for the AFL to consider follows below.

IDP awareness and concerns

The AFL is one of the few sports in Australia to have an illicit drugs policy which is supported by a comprehensive medical model. All of our observations in this report are made with the intention to contribute to strengthening it.

We were advised that the AFL developed their Illicit Drugs Policy in 2005 following extensive consultation with experts on what the best strategy was to address substance abuse in the game. Essentially, the AFL wants to deter players from using drugs, but when they do, there is a support and intervention system in place to assist. Critics argue that this medical model is not punitive enough and does not sufficiently discourage drug use. This seemed to be the underlying point of tension and philosophical divergence that we encountered throughout this assessment – which method was more effective and could the AFL's current 'hybrid' approach utilising both a medical response *and* sanctions work.

We found that it is the lack of transparency and clarity about the Illicit Drugs Policy and processes, underpinned by the player/doctor confidentiality that the medical model relies upon, that has created misunderstanding and confusion as to its motives and effectiveness. This is illustrated by allegations of 'secret tests', the resting of players testing positive for illicit drugs following these tests by making excuses such as 'feigning injuries', and players circumventing the anti-doping system.

It should be highlighted that SIA looked at these claims throughout this assessment and found no evidence to suggest testing by the AFL or club doctors was in breach of the WADC, or that injuries were feigned to cover up for positive drug testing during the week by the AFL or club doctors. We did find that most players adhere to the AFL's Illicit Drugs Policy and intervention model in good faith, however some players will and do find ways to get around the system and while this is not ideal, no policy or process is without weaknesses.

The confidential nature of the medical model (between doctor and player) prevents the AFL from sharing information publicly, however the resulting information vacuum creates a degree of suspicion. Evidence of the efficacy of the model was highlighted by club doctors and supported by the AFL and AFLPA who indicated there were successful outcomes on many occasions for a first strike intervention. This is not to say that every intervention has been successful or that the model has worked for everyone, however there is evidence to suggest that the adoption of the IDP has been of overall benefit to the AFL players.

SIA does recommend oversight of the new IDP through an independent committee, with specific terms of reference developed by the AFL to provide clear oversight of the implementation of testing and intelligence to enhance its operation and prevent allegations of cover ups or secretive testing based on medical confidentiality requirements.

Culture and leadership

SIA notes there has been a surge in illicit drug use in Australia in recent times¹, including in sport. We are of the view that the casualisation of illicit drug use in society and sport highlights the need for a major cultural shift in Australian sport regarding how illicit drugs are perceived.

¹ [Surge in Australian drug use revealed in wastewater as methamphetamine dominates | Drugs | The Guardian](#)

SIA, along with several partner organisations, has identified evidence of clear dangers of criminals influencing sport through the supply of illicit drugs, including by preying on athletes or support staff to access inside information. For example, a player or club doctor providing sensitive information on availability due to injury or an illicit drug strike could potentially contravene a sport's competition manipulation rules or relevant inside information legislation.

Without significant cultural intervention to address the illicit drug culture in all sport, SIA is very concerned about the dire impacts to players' health and wellbeing, and the potential to bring a sporting code or team into disrepute through criminal influence and corruption. People's lives and careers are literally on the line if we do not collectively get this right.

Pre-Covid, the AFL Integrity Unit was well resourced with highly skilled intelligence capability and was the envy of most sports. This capacity was reduced substantially during Covid. However, we are advised that new roles bolstering the resourcing across the AFL Integrity and Security Department will ensure the AFL's integrity intelligence capabilities are commensurate to the resourcing levels that existed prior to Covid. SIA supports the AFL having a well-resourced Integrity Unit with sufficient intelligence capability so they can manage current and emerging integrity threats, including those posed by criminal elements.

Also, it is not a sport's policy alone that sets good culture in their sport. Culture is socially learned, shaped by individuals and transferred between a group. It is about shared attitudes, values, behaviours, beliefs, symbols, norms and expectations. It can grow or weaken over time and can be directed and shaped with strong leadership.

There are three groups that can have a huge influence in addressing a drug culture in the AFL, these include AFL executives, senior executives and coaches of all 18 AFL clubs, and the leadership groups within each team. These people wield enormous authority and influence within their spheres, and all should be exemplary leaders and role models of integrity for those around them. Their actions are vitally important in shaping the sport, club cultures and players' views around illicit drugs and what is and is not acceptable. We should also recognise the future players coming into a team that can influence the culture – if they are educated and aware when they are on the pathway, then at least they will come in with the right mindset, values and behaviours.

From a governance perspective, SIA believes sport Integrity Units should operate with a level of independence. We acknowledge that the AFL Integrity Unit ultimately reports to the CEO and understand that their Integrity Unit also reports to the AFL Commission (through the Audit and Risk Committee) but suggest, from a good governance perspective, that this arrangement is formalised in governance frameworks as it provides dual layers of oversight.

Education and training

As a Signatory to the WADC, the AFL should comply with the WADC and the International Standards, this includes the International Standard of Education (ISE). Under the ISE, the AFL has a responsibility to educate players about anti-doping rights and responsibilities to ensure they are educated about the Code under which they operate.

SIA currently works with the AFL, AFLPA and clubs to provide advice, support and resources, including online and face-to-face training to players on the risk of using WADC prohibited substances in sport.

SIA was advised as part of this assessment by various parties that the AFL's current education program around both illicit and performance enhancing drugs has declined since the Covid pandemic, and they are not undertaking the formal training outlined in the IDP. However, both the AFL, AFLPA and clubs acknowledged during this assessment that more education on illicit and performance enhancing drugs is required, particularly face-to-face sessions with every club.

There is a real opportunity for the AFL and clubs to enhance their cultures and affect behavioural change in relation to illicit and performance enhancing drugs through coordinated and consistent education and training that is innovative and fit for purpose.

3.1 KEY RECOMMENDATIONS

1. IDP Oversight Committee

SIA recommends that the new AFL Illicit Drugs Policy has an independent committee that includes existing staff from the AFL, AFLPA, AFL Doctor's Association (and independent representative) to provide oversight of the new policy and its implementation.

2. IDP Guidelines for sanctioned testing only

SIA recommends that the AFL develop guidelines in the IDP to ensure that no illicit drug testing occurs within any AFL club outside the sanctioned AFL Illicit Drug Policy. This will ensure consistency and accountability for all those covered by the policy.

3. Expand AFL Integrity Unit intelligence capability

SIA acknowledges there is a long-existing relationship with the AFL around intelligence sharing and we hope to build on this in the future. SIA recommends that the AFL continue to expand its Integrity Unit's intelligence capability and resourcing to manage current and emerging threats posed by integrity threats.

4. Expand/promote AFL anonymous tip off portal

Confidentiality is important when it comes to addressing issues around illicit drug addiction, and in a same light, critical to receipt of tip offs to inform areas of threat. SIA recommends the AFL expand and promote their anonymous portal for reporting of integrity matters threatening the sport.

5. Expand AFL illicit drug testing program to AFLW players

SIA recommends that AFLW players should be subject to the new Illicit Drugs Policy and framework, including the same wellbeing support and education.

6. Develop a strategy for illicit drug use by non-players

All senior staff in the sport have a responsibility for educating and mitigating against illicit drug use by players. SIA recommends that the AFL develops a strategy to respond to integrity risks that may arise from illicit drug use by non-players.

7. Enhance education and awareness of the AFL's IDP

SIA recommends that the AFL implement clear education and awareness on the aims and application of the AFL's Anti-Doping Code and Illicit Drugs Policy to players, club doctors, coaches and club CEOs/Boards; and also increase transparency of the new AFL Illicit Drugs Policy and processes.

8. Expand AFL Education Program

SIA recommends the AFL work with SIA on the implementation of a staged education framework (see section 5.7) that includes: SIA's continued support on their Anti-Doping Education Plan in accordance with the World Anti-Doping Code; AFL mandated annual completion of eLearning courses for players, coaches, support staff and CEO/Board members across all AFL/AFLW clubs; AFL mandated SIA face-to-face education for all AFL/AFLW clubs prior to 2025 season commencing; AFL mandated annual completion of eLearning courses and face-to-face education to State/Territory League clubs.

4. ASSESSMENT TO DETERMINE ANY POTENTIAL BREACH OF THE WORLD ANTI-DOPING CODE

4.1 AFL ANTI-DOPING OBLIGATIONS

The AFL holds a unique position in Australian sport when it comes to anti-doping as it has obligations as a Signatory to the WADC and as a National Sporting Organisation (NSO) under the *Sport Integrity Australia Act 2000* (SIA Act). No other Australian sport has these dual obligations.

In February 2019, the AFL became a Signatory to the WADC under the category of a 'professional league', as the AFL is not considered by WADA to be an International Federation (IF). As a Signatory to the WADC, the AFL is required to comply with the WADC and the International Standards. Together with WADA, SIA approved the 2021 Australian Football Anti-Doping Code (AF Code), which came into effect on 1 January 2021 and implements the provisions of the WADC.

WADA is responsible for monitoring and enforcing compliance of Signatories. Amongst other things, Signatories are required to report on their compliance to WADA, as set out in the International Standard for Code Compliance by Signatories. The AFL is subject to this compliance regime.

As a NSO, under the SIA Act, the AFL must:

- have an anti-doping policy that complies with the WADC and the National Anti-Doping (NAD) scheme;
- not substantially amend its policy without the approval of the SIA CEO;
- enforce its anti-doping policy to the satisfaction of the SIA CEO; and
- submit to the operations of the SIA CEO.

Under the AF Code, SIA maintains its legislative authority to:

- initiate testing and to proceed with investigations for anti-doping matters concerning athletes within the AFL's jurisdiction; and
- present anti-doping cases at hearings, as well as have the right to appeal anti-doping decisions.

The AFL's Anti-Doping Code

The AF Code prohibits players from using prohibited substances or classes of substances, listed on WADA's current Prohibited List 2024. Sport Integrity Australia enforces the AFL's obligations under the AF Code and WADC by conducting testing of AFL athletes both In-Competition and Out-of-Competition.

The AFL's Illicit Drugs Policy

The AFL is one of the few sports in Australia to have its own illicit drugs policy that sits alongside the AF Code as an extra layer of protection. Without such a policy, it is argued that the focus would be on anti-doping testing only, and this would be a missed opportunity for testing Out-of-Competition for illicit substances to help identify and support the health and welfare of those players with illicit drug issues.

The AFL developed their IDP in 2005, with reference to the National Drug Strategy and following extensive consultation with experts and peak drugs bodies who recommended, based on evidence, a harm minimisation approach, which is primarily concerned with player health and wellbeing. SIA understands it is guided by the

belief that recreational drug use is primarily a health issue that is best addressed through education, rehabilitation and support. However, it was developed at a time when cocaine use was not as widespread, albeit the policy has been reviewed and updated since its introduction.

Different sports in Australia have their own illicit drugs policies with guidelines, processes and sanctions that are as unique as the sports themselves.

The AFL determines how its policy is implemented and any processes that apply. The AFL's current Illicit Drugs Policy is being reviewed at present.

AFL hair testing

The AFL's Illicit Drugs Policy is principally based on hair testing, which is conducted by the AFL twice a year on the entire AFL playing group (800+ players) across the 18 AFL clubs to identify those who have used illicit drugs.

The results of the hair tests, which are undergone voluntarily by the players, are then compiled by the AFL Integrity Unit, reviewed by the AFL Chief Medical Officer (CMO) and shared confidentially with AFL club doctors only (not the club coach/CEO or Board). Club doctors then confidentially consult with relevant individuals in their club and, if necessary, and in conjunction with assessment by the AFL CMO and welfare team, develop a plan to treat their drug-related issues.

This is a non-evidentiary, no strikes approach. It is used to identify players who have a problem and for the AFL CMO/welfare team to work with the club doctor and player. It also provides a good snapshot of the drugs issue in the AFL and where this is occurring at any particular time. These deidentified reports are provided to the AFL club CEO on a regular basis.

Club doctors are required to maintain communications with the AFL CMO and ensure that any illicit substance use concerns are managed with discretion and in accordance with Australian health laws, medical ethical standards (including the Australian Health Practitioner Health Regulation Agency – AHPRA), AFL policy guidelines and the WADC.

The alleged 'off-the-books' testing

The allegation of the 'off-the-books' testing (which is dispelled in the assessment 4.2 below) is in relation to urine testing organised and/or carried out by AFL club doctors if a player presents to them advising that they had taken an illicit substance. This is carried out outside of the AFL's Illicit Drug Policy (not sanctioned by the AFL) and is different from the hair testing set out above. The testing for illicit substances by the AFL under its Illicit Drugs Policy and the alleged 'off-the-books' testing conducted by the AFL club doctors is the subject of this part of our assessment.

Sport Integrity Australia notes that these Out-of-Competition testing programs and procedures, rules and consequences are determined by the AFL, not SIA.

4.2 TERMS OF REFERENCE 1 – ADRV ASSESSMENT

SIA notes at the outset that we have not received a referral alleging that any particular player or support person has committed an ADRV through conduct of the type described in Parliament. As a result, we considered whether conduct of the type described in Parliament, and through the course of this assessment, would, in principle, constitute an ADRV. Should any further information become available to SIA in regard to a particular allegation of an ADRV, we would assess it on a case-by-case basis.

In relation to ToR 1 for this assessment – whether there has been a potential breach of the WADC by AFL players or support personnel, SIA assessed the conduct against the Anti-Doping Rule Violations (ADRVs) set out under the WADC.

The following were considered most relevant given the facts known to SIA:

- Article 2.3 – Evading, Refusing or Failing to submit to Sample Collection by an Athlete
- Article 2.5 – Tampering or Attempted Tampering with any Part of Doping Control by an Athlete or Other Person
- Article 2.9 – Complicity or Attempted Complicity by an Athlete or Other Person

Following is an outline of our findings as to whether there have been any ADRV as set out above in regard to the conduct alleged, pursuant to the WADC.

Article 2.3 Evading, Refusing or Failing to submit to Sample Collection by an Athlete

Article 2.3 of the WADC provides that an ADRV is committed by:

Evading Sample collection; or refusing or failing to submit to Sample collection without compelling justification after notification by a duly authorised Person.

The comment to Article 2.3 of the WADC provides that:

For example, it would be an anti-doping rule violation of "evading Sample collection" if it were established that an Athlete was deliberately avoiding a Doping Control official to evade notification or Testing. A violation of "failing to submit to Sample collection" may be based on either intentional or negligent conduct of the Athlete, while "evading" or "refusing" Sample collection contemplates intentional conduct by the Athlete.

When was the testing by the AFL and its club doctors occurring?

The first matter that SIA considered is the period in which the AFL player(s) were being tested by the AFL and whether they were tested by the AFL or AFL club doctors In-Competition or Out-of-Competition (as defined in the WADC).

The In-Competition period in the AFL is defined in the WADC and AF Code as:

The period commencing at 11:59pm on the day before a Competition in which the Athlete is scheduled to participate through the end of such Competition and the Sample collection process related to such Competition.

It is noted that the AFL's Illicit Drugs Policy provides that any testing under that policy will not be conducted on the day of a match and any samples collected on a match day are dealt with exclusively under the AF Anti-Doping Code.

Sport Integrity Australia has been advised that the AFL and the club doctors do not conduct tests for illicit substances on the day of a Competition (including within the In-Competition period as defined in the WADC and AF Code). Rather, any testing takes place during the week prior to their next match commencing. We have no reason to suspect this is not true, and consequently, we can conclude that the testing by the AFL and its club doctors was taking place Out-of-Competition.

What were the players being tested for?

The AFL's Illicit Drugs Policy specifies a list of substances that are Prohibited Substances. This includes various stimulants, narcotics and cannabinoids (which are also Prohibited Substances (In-Competition) under the WADC).

Sport Integrity Australia was advised by those it spoke to that the testing by AFL club doctors was limited (on average less than several players per year in a team) and that club doctors were not testing for anything that was prohibited Out-of-Competition. It is our understanding that on the limited occasions that the testing was conducted by club doctors – this was generally performed via the use of 'standard' occupational health or workplace testing kits. These kits typically screen for substances such as THC (Marijuana), Methamphetamines, Morphine, Cocaine and Benzodiazepines. We found no evidence or information to contradict this. We were advised that the kits that were used for testing are available off the shelf, and we have confirmed that these kits only test for illicit.

We have no reason to believe any testing on AFL players included screening for substances prohibited Out-of-Competition as defined under the WADC and Prohibited List.

Sport Integrity Australia's anti-doping testing program with the AFL

Sport Integrity Australia's Test Distribution Plan (TDP) with the AFL is largely determined at the start of the season. The TDP outlines the test numbers for the season including Out-Of-Competition, In-Competition (in AFL and AFLW) and some additional analysis.

Test planning throughout the season is at the discretion of SIA, and the AFL is not involved or aware of SIA's test planning decisions. The AFL is not aware of the timing for Out-of-Competition 'testing missions' for each club. While the AFL provides information to SIA to enhance our anti-doping testing program, all individual testing decisions are made by SIA based on our own target testing assessments. After the test mission, the AFL may be advised which athletes were tested, usually with a fortnightly update.

Note, that this information above relates to the anti-doping testing program only. The AFL does not provide SIA with any information relating to its illicit drug Out-of-Competition testing by doctors nor those in its intervention program.

Was there intentional conduct by the AFL Players to evade testing by SIA?

Sport Integrity Australia also considered whether AFL players were intentionally evading testing by not competing in any matches (within the In-Competition period).

As noted above, Sport Integrity Australia has been advised that the AFL and its club doctors do not conduct tests for illicit drugs on the day of a Competition (including within the In-Competition period as defined in the WADC and AF Code). There have been no examples in the course of this assessment of an AFL player having been formally notified of a request to provide a Sample by a SIA Doping Control Officer and failing to do so.

Our analysis suggests that there was NO clear or uniformly held intention behind the alleged 'off the books' testing. We have been informed tests are mostly directed towards players concerned for their welfare and mental health and also admitting to the club doctor that they had taken an illicit substance on the weekend after their game and the club doctor wanting:

1. an independent test to confirm whether the substance was still in the player's system;
2. to ensure that the player did not train or take part in matches if the illicit substance was still present in their system in order to protect the player's health and wellbeing above all; and
3. to ensure that the player did not risk contravening anti-doping rules, thereby protecting the integrity of the sport.

If Article 2.3 of the WADC is contravened by any action taken with the intention of avoiding a potential doping control test, as opposed to one the player knows will occur, for a substance prohibited In-Competition only, players may find themselves in a difficult position. On one hand they may be accused of evading a test if they do not compete (and accordingly are not subject to testing In-Competition) or, alternatively, they could avoid such an accusation by competing with a prohibited substance in their system and thereby commit a presence ADRV. An AFL player withdrawing from a competition in relation to a substance prohibited only In-Competition would not obtain a performance advantage for the simple reason that they would not be competing.

SIA recognises that a player who evades an In-Competition test avoids a test not just for substances prohibited In-Competition but also for substances prohibited Out-of-Competition. This will be the case notwithstanding the fact that the player did not intend to avoid a test for substances prohibited Out-of-Competition. As noted in Arbitration CAS 2015/A/4163 *Niksa Dobud v. Fédération Internationale de Natation (FINA)*:

...the regulations governing test evasion do not require the governing body to establish why an athlete may have evaded a test; only that he had in fact done so.

However, a player who withdraws from a competition will nevertheless be subject to Out-of-Competition testing for substances that are prohibited under the WADC at all times and SIA is not aware of any material that suggests the testing was part of program aimed at obtaining an unfair advantage through the use of performance enhancing substances or methods.

Testing is not conducted at every AFL match, nor will a player be advised ahead of time that they will be tested where match day (In-Competition) testing does take place. As such, a player will be avoiding only the risk or possibility of being tested rather than a test they know will take place but for the action they take to avoid it. It seems significant that if the athlete does not compete, they are not subject to In-Competition testing: they cannot be said to have avoided a test for which they were not subject. While we recognise some will dispute this view of the ADRV, it reflects the jurisprudence we have identified on evasion, which typically involves In-Competition testing of players who have, naturally enough, actually competed, or Out-of-Competition testing for substances banned Out-of-Competition, and in matters where the player has been advised of a test or understands that one will take place. This is different to the circumstances SIA has been made aware of.

Further, in the absence of evidence on the state of mind of the parties involved in any given matter, it may be difficult to establish the intention of those alleged to have committed an evasion ADRV, even if the issues described in the previous point can be satisfactorily dealt with. It may be difficult to prove a player withdrew from a competition to avoid a doping control test or whether they withdrew to avoid playing with an illicit substance in their system. The second scenario would not constitute an ADRV irrespective of the fact that it would result in the player not being tested (In-Competition). We note that the player would still be subject to Out-of-Competition testing (for substances prohibited Out-of-Competition) by SIA. While the distinction set out above may seem slight it is nevertheless significant for this ADRV.

In summary, SIA has not received any evidence throughout this assessment to suggest that any AFL player who tested positive to an illicit substance (Out-of-Competition following a test administered by their club or external doctor) and who subsequently absented themselves from an upcoming match, knew that there was an upcoming Doping Control Test being conducted on them by SIA at that game and that they intentionally took steps to avoid that testing. Rather, in the rare situations we were informed of, the player avoided playing altogether predominantly due to health and wellbeing reasons (mental health decisions) and to ensure that they did not compete if the substance (which wasn't prohibited at the time they consumed it) could be present in their system during the game.

Sport Integrity Australia notes that it is not inherently unreasonable or inappropriate for a player to withdraw from competition prior to game day if in fact they believe there may be a substance in their system that is prohibited only In-Competition (whether that substance is unlawful to possess, such as cocaine, or another

substance such as pseudoephedrine which is found in cold and flu medication), and they don't believe they can receive a Therapeutic Use Exemption² for that substance. In doing so, they are avoiding any risk of "cheating" with a prohibited substance In-Competition and avoiding any risk of an adverse analytical finding.

While the notion of screening tests by AFL club doctors may be uncomfortable, and at times present a dilemma to a club doctor regarding the reasons to disclose for a player withdrawing from a game, on the information we have this conduct does not in itself constitute an ADRV.

Refusing or Failing to submit to Sample collection

As stated above, we do not have any evidence of any AFL player refusing to be tested either In-Competition or Out-of-Competition after notification by a SIA Doping Control Officer.

Conclusion

Having regard to the above in relation to the allegations posed, and in consideration of the information SIA received throughout this assessment, it is our view that there is no evidence to suggest that any AFL player deliberately evaded Sample collection that they knew was taking place, or that would take place, or that they refused or failed to submit to Sample collection by a SIA Doping Control Officer. Therefore, with the information we have at hand, we are of the view that there has been no breach of Article 2.3 of the WADC.

Article 2.5 *Tampering or Attempted Tampering with any Part of Doping Control by an Athlete or Other Person*

Tampering is defined under the Definitions in the WADC as:

Tampering: Intentional conduct which subverts the Doping Control process, but which would not otherwise be included in the definition of Prohibited Methods. Tampering shall include, without limitation, offering or accepting a bribe to perform or fail to perform an act, preventing the collection of a Sample, affecting or making impossible the analysis of a Sample, falsifying documents submitted to an Anti-Doping Organisation or TUE committee or hearing panel, procuring false testimony from witnesses, committing any other fraudulent act upon the Anti-Doping Organisation or hearing body to affect Results Management or the imposition of Consequences, and any other similar intentional interference or Attempted interference with any aspect of Doping Control.

The definition of tampering is broad and the words after "shall include" are illustrative of the types of activities that constitute tampering, but it is not an exhaustive list.

The definition of "Doping Control" is also broad and is defined under the WADC as:

All steps and processes from test distribution planning through to ultimate disposition of any appeal and the enforcement of Consequences, including all steps and processes in between, including but not limited to, Testing, investigations, whereabouts, TUEs, Sample collection and handling, laboratory analysis, Results Management and investigations or proceedings relating to violations of Article 10.14 (Status During Ineligibility or Provisional Suspension).

² Athletes may at times need to use a prohibited medication and/or method to treat a legitimate medical condition. A Therapeutic Use Exemption (TUE) is an exemption that allows an athlete to use, for therapeutic purposes only, an otherwise prohibited substance or method (of administering a substance). TUEs are administered by the Australian Sports Drug Medical Advisory Committee (ASDMAC).

Has there been any conduct by any AFL Players or Other Persons which has subverted the Doping Control process?

To answer this question, SIA considered whether there has been any intentional conduct by any AFL player(s) or *Other Persons* (including the AFL, club doctors, coaches and support personnel) which has subverted the Doping Control process.

The earliest stage of Doping Control identified in the WADC is 'test distribution planning'. This is most applicable to the scenario which has been presented to us. This is a process required by Article 5.4 of the WADC, which is reflected in Article 5.4 of the AF Code, which states:

AFL shall conduct test distribution planning and Testing as required by the International Standard for Testing and Investigations.

Article 4.0 of the *International Standard for Testing and Investigations* (ISTI) states that Anti-Doping Organisations are required to plan and implement testing on Athletes whom it has authority over which is proportionate to the risk of doping (Article 4.1.1 of the ITSI). Anti-Doping Organisations are further required to ensure that nobody with conflict of interest is involved in test distribution planning (Article 4.1.2 of the ITSI). The AFL delegates its anti-doping testing to Sport Integrity Australia through an annual Deed of Standing Offer.

Jurisprudence from the Court of Arbitration for Sport (CAS) has observed the following in relation to tampering (from *Arbitrations CAS 2021/A/7983 Brianna McNeal v. World Athletics (WA) & CAS 2021/A/8059 WA v. Brianna McNeal*, award of 9 June 2022 (operative part of 2 July 2021):

Since CAS has interpreted "Tampering" provisions to mean conduct that is (i) "fraudulently misleading" such that it (ii) "subverts the doping control process" (CAS 2017/A/4937, par. 126, 128), there must be an "intent to deceive" doping control or an "intent to subvert the investigation" (CAS 2013/A/3341, par. 128). In order to do so, such conduct must be able to possibly impact the specific stage of doping control process in a way that diminishes the authority of the Results Management institution or anti-doping organisation (CAS 2015/A/3979, par. 147; CAS 2017/A/4937, par. 144).

As previously highlighted, the AFL provides information to SIA in the development of the AFL test distribution plan which includes SIA conducting targeted In-Competition testing. SIA has seen no information that suggests it has been fraudulently misled by an AFL player, the AFL or its personnel, such that any specific stage of SIA's doping control process has been subverted. There has been no conduct on the part of the AFL that has diminished SIA's Results Management authority such that it has impacted any specific stage of SIA's doping control process with the AFL.

As highlighted, the player is not subverting the doping control process, rather they are choosing not to compete due to the risk that they might still have a substance in their system which would be in breach of the WADC if they competed. The intentional conduct is not playing, as opposed to undermining the test distribution planning which they (or the doctors) have no knowledge of.

Conclusion

Considering the information provided to this assessment, SIA has no evidence to indicate that the testing of AFL player(s) was used to subvert the AFL's and/or SIA's test distribution planning or any other part of SIA's Doping Control process (as defined above). Further, SIA has no evidence that any AFL player(s) tampered with any part of SIA's Doping Control process. Therefore, having regard to the above and with the information we have at hand, we are of the view that there has been no breach of Article 2.5 of the WADC.

Article 2.9 Complicity or Attempted Complicity by an Athlete or Other Person

Under Article 2.9 of the WADC, complicity or attempted complicity involves:

Assisting, encouraging, aiding, abetting, conspiring, covering up or any other type of intentional complicity or Attempted complicity involving an anti-doping rule violation, Attempted anti-doping rule violation or violation of Article 10.14.1 by another Person.

Article 2.9 of the WADC requires there to be an ADRV, attempted ADRV or involvement in conduct pursuant to Article 10.14.1 (Prohibition against Participation during Ineligibility or Provisional Suspension). In the present matter, the testing by AFL was undertaken Out-of-Competition for substances permitted Out-of-Competition. We have assessed that no ADRVs contrary to Article 2.3 or 2.5 of the WADC have occurred, and it follows then there will have been no complicity or attempted complicity on the part of any AFL players, the AFL or any of its employees pursuant to Article 2.9 of the WADC.

It is noted that as far as the allegation that the AFL mandate or sanction an 'off the books' testing process, all parties we spoke to during this assessment confirmed that this is not the case. We received no evidence to suggest the AFL influence club doctors to do any illicit drug testing that contravenes the AFL's Illicit Drugs Policy.

Conclusion

Having regard to all the above, our view is that there have been no breaches of Article 2.9 of the WADC.

4.3 TERMS OF REFERENCE 2 – AFL SIGNATORY STATUS TO WADC

In relation to ToR 2 for this assessment, as a Signatory to the WADC, the AFL should comply with the WADC and the International Standards, this includes the International Standard of Education (ISE). Under the ISE, the AFL has a responsibility to educate players about anti-doping rights and responsibilities to ensure they are educated about the Code under which they operate.

SIA has worked in partnership with the AFL to review their 2023-25 AFL Anti-Doping Education Plan. The Plan was based on the WADC Guidelines for the ISE and SIA continues to work with the AFL in supporting them with the delivery of the Plan.

However, there is a real opportunity to enhance the AFL and club cultures and affect behavioural change in relation to illicit and performance enhancing drugs through coordinated and consistent education and training between SIA, the AFL, AFLPA and AFL Doctor's Association to all levels of the game. SIA strongly encourages the AFL to focus greater resourcing on anti-doping, illicit and integrity education (including on competition manipulation/match fixing and the risks of organised crime), plus continue to expand their education efforts to players at second tier/pathway levels.

Conclusion

As a signatory to the WADC, the AFL has mandatory obligations around anti-doping education. While the AFL does have a current Anti-Doping Education Plan, SIA has identified a need for the AFL to enhance their education program to all levels of the game.

4.4 TERMS OF REFERENCE 3 – AFL ILLICIT DRUGS POLICY AND NAD SCHEME ASSESSMENT

Terms of Reference 3 is in relation to whether the operation of the AFL's Illicit Drugs Policy conflicts with the NAD Scheme such that it would cause incongruencies with its application and operation.

The AFL's Illicit Drugs Policy operates separately from the NAD Scheme. The policy primarily targets recreational drugs and aims at minimising harm and protecting player welfare, whereas the NAD Scheme assists sports to meet their anti-doping obligations and focuses on the implementation of Australia's international anti-doping obligations. While both ultimately aim to promote integrity in sport, they address different aspects and operate under separate objectives and distinct frameworks.

Conclusion

As part of this assessment, SIA has not found any irreconcilable differences between the AFL's Illicit Drugs Policy and the NAD Scheme.

5. OBSERVATIONS AND CONSIDERATIONS IN RELATION TO THE AFL'S ILLICIT DRUGS POLICY

Everyone associated with this assessment had their own views in relation to the AFL's Illicit Drugs Policy and its implementation and goals, however one thing that stood out was each persons' passion and commitment to the protection of the health and welfare of the players. There were, however, contrasting views on whether this should be addressed through an accountability and punitive approach or supported by harm minimisation through a medical model.

No policy will perfectly meet the expectations of all stakeholders; they are meant to evolve and improve as lessons are learned while striving for best practice (in fact both the WADC and AFL's Illicit Drugs Policy have been reviewed and updated over the years). Policies are also only as good as they are explained, promoted and implemented. The AFL and AFLPA have both stated that they are reviewing the existing Illicit Drugs Policy so it is 'fit for purpose for 2024 and beyond'³. All people we spoke to during this assessment suggested the need for improvement with the current policy.

While SIA is satisfied that the AFL's Illicit Drugs Policy and processes for testing do not breach the WADC (as outlined above and supported by WADA), a range of matters were identified by different parties during this assessment and suggestions were offered on how the new policy could be enhanced. While it is up to the AFL/AFLPA on how they interpret the observations highlighted in this section of the report, we do hope that it provides a positive contribution as part of the new policy review process.

5.1 THE NEED FOR CLARITY AND AWARENESS

While both AFL policies ultimately aim to protect the integrity of sport – the IDP is to protect individual player wellbeing and the AF Anti-Doping Code is to detect and prevent the use of performance enhancing substances to keep the game fair and safe for all and free from integrity risks. It was highlighted by several people we spoke to that the AF Anti-Doping Code was well-defined and players were acutely aware of how the anti-doping process worked but were less clear as to how the illicit drugs policy and testing regime operated, or what the alignment was between the two.

Transparency and clarity are crucial to reduce suspicion, enhance trust and garner support. Critics of the IDP claim there needs to be a clear policy and processes that everyone understands, otherwise it is perceived as a 'secret' program serving the AFL's interests. This could be partly due to the fact that the AFL's current Illicit Drug Policy is not made publicly available.

We heard from those in a range of positions within AFL clubs that more could be done to drive awareness of how the IDP worked or what the processes were involved in the medical intervention model. We heard on several occasions that there were no processes documented and that this information was either passed down from previous club doctors or learned by club doctors on the job. The AFL, AFLPA and AFL Doctor's Association all have a role to play here in enhancing this awareness.

³ [AFL CEO Andrew Dillon backs 'intervention drug testing', defends privacy policy after Federal independent MP Andrew Wilkie's revelations in parliament](#)

We were told the AFL provides an online module on illicit and performance enhancing drugs and there are several advisory meetings a year from the AFL CMO regarding the policy, and the AFL Doctor's Association provides professional development and holds occasional update meetings for club doctors. But it is clear from those we spoke to that more needs to be done to enhance awareness, understanding and consistency and transparency in its application (and timely reviews of the policy itself).

The policy itself mentions a 'management plan' for counselling, education or treatment of a player with respect to illicit drugs, but there is no mention of the Active Intervention Model that players with serious drug and related mental health issues go into or how a person qualifies for this or how it works. While understanding each intervention plan is individualised according to a player's issues and that confidentiality remains between the player, club doctor and AFL CMO/welfare team, those we spoke to suggested that more could be done to educate other club staff.

Considerations

- Greater education on the aims of the AF Anti-Doping Code and Illicit Drugs Policy for all stakeholders.
- Being more transparent and clearer on the mandate, processes and outcomes of the new Illicit Drugs Policy to all stakeholders.
- AFL to consider making the Illicit Drugs Policy publicly available for greater transparency and understanding for the public.
- Document and promote processes involved with the Illicit Drugs Policy and any intervention model to assist club doctors with its administration and education to others.
- SIA suggests that the new AFL Illicit Drugs Policy has an independent oversight committee that includes the AFL, AFLPA, AFL Doctor's Association (and SIA or another independent representative).

5.2 PLAYER WELFARE VS A PUNITIVE APPROACH

The AFL developed its illicit drugs policy in 2005 following extensive consultation with experts and peak drugs bodies who recommended, based on evidence, a harm minimisation approach. As such, it chose a more rehabilitative model of management including education, counselling and monitoring treatment as an appropriate strategy to deter the use of illicit drugs. Much has changed in this time in the game and there has also been a marked increase in cocaine use in society since the policy was introduced (increasing from approx. 5% of Australians 14 and over ever using cocaine in 2005 to 13.5% in 22/23).⁴

The current policy is a hybrid one, with harm minimisation as the key principle, but it also provides for strikes and associated sanctions for repeated indiscretions. It is SIA's observation that the 'hybrid' nature of the current policy presents difficulties as it creates challenges in its administration and confuses the intention.

There has been ongoing debate over the adequacy of sanctions for positive tests under the policy and calls for harsher penalties for a first strike (i.e. a positive test). Some argue the disincentive or deterrence is not there and there needs to be stricter consequences for those who use illicit drugs, particularly those who fail to modify their behaviour. Contrary to this, it is argued that publicly outing those with serious drug and mental health issues has the potential to cause more harm to these individuals.

We were told by all key stakeholders and several club doctors during this assessment that over the 19 years of its functioning, the IDP has been highly effective in identifying and mitigating the harms associated with illicit drug use, citing positive stories on how the medical model had helped players with their substance abuse issues.

⁴ [National Drug Strategy Household Survey 2022–2023, Use of illicit drugs - Australian Institute of Health and Welfare \(aihw.gov.au\)](https://www.aihw.gov.au/national-drug-strategy-household-survey-2022-2023/use-of-illicit-drugs)

It is outside the scope of this Assessment to suggest whether a punitive or harm minimisation (welfare-based) model is better or what the AFL should implement. Different views on the best way to address illicit drugs in the game will always be difficult to reconcile as opinions are divergent, however ultimately it is the AFL/AFLPA/players decision as to the best way forward with the new policy.

Considerations

- Consider sharing (deidentified) information on some of the positive outcomes that have come out of the medical intervention model (i.e. examples of players overcoming drug addiction or player's lives that have been improved).

5.3 PLAYERS CIRCUMVENTING THE SYSTEM

Under the AFL's Illicit Drugs Policy, a first strike results in a wholly suspended \$5,000 fine (until such time as the player returns a second Adverse Finding), counselling and target testing and the only person informed is the player's club doctor. Subsequent strikes involve naming and harsher penalties including suspension from the game. We were informed throughout this Assessment that most players adhere to the illicit drugs system in good faith, however some players do find ways to get around the system and thereby undermine the policy's intent.

Critics claim that the model offers too much protection to the player who abuses the concessions they are given and that players may view this as a 'free pass' as they know they will not get a second strike as they are protected as part of the intervention group. This point is demonstrated by the fact that very few players have had a second or third strike while the policy has been in operation.

Also, under the current policy, a player who has tested positive can receive treatment, rather than register a strike or be named and serve a suspension, if they are diagnosed with a medical condition, such as a mental health disorder. Critics claim that players are falsely claiming to have mental health and/or substance abuse issues to avoid being penalised and that the system allows for this.

The potential to circumvent the system (as asserted by some critics) is possible. However, there are provisions in place to prevent this, including the need for a doctor to diagnose the player with a specific drug or medical (mental health) condition, and that decision must be signed off by the AFL CMO and then includes an ongoing intervention and treatment plan. These individuals at high-risk have medically verified issues and are monitored closely for progress (including whether they can train/play during this treatment). They are also regularly tested so their club doctor will know if their conditions are improving or not. If a player fails to comply with their plan, then this is elevated to the AFL CMO who will decide if they are in breach of the policy and whether sanctions are enforced or they are removed from the program (it is claimed there have only been a couple of cases of this occurring in the lifetime of the policy).

Considerations

- Tighten any gaps in the new policy to ensure that it cannot be circumvented to maintain the integrity of the model (e.g. ensure that all identified illicit drug use is dealt with in accordance with the Illicit Drug Policy).

5.4 CONFIDENTIALITY VS TRANSPARENCY AND THE ROLE OF THE CLUB DOCTOR

Ethical conundrum

Club doctors have obligations to the AFL and their AFL club to ensure player issues are managed so they are consistent with best medical practice. Under AFL regulations, a player cannot enter the field of play if they are not medically fit – this is declared by the club doctor and cannot be overruled by the AFL or club.

There is a genuine duelling principle for the AFL regarding player/club doctor confidentiality and concerns of the effect to a player's mental wellbeing by publicly exposing them and their illicit drug use by naming them. This brings into balance the player's privacy against people's desire to know so they can assist.

Some club doctors told us of the burden that is on them to protect players. They are required to maintain transparent communication with the AFL CMO and ensure any substance abuse concerns by players are managed with discretion and in accordance with applicable privacy laws, ethical obligations and the AFL's Illicit Drugs Policy guidelines. We were advised this was crucial to enable a trusted relationship to develop where a player would confide in matters related to their health and welfare so that the doctor could assist. Without this trust and confidentiality, we were told, players might not disclose illicit drug use or mental health concerns, meaning they may be left unaddressed or escalate if untreated.

In relation to the situation where a club doctor arranges for a player to do a urine test during the week (prior to their next match) to check if there are any illicit substances in their system (outside of the AFL Illicit Drugs Policy and not sanctioned by the AFL) and the result came back positive, we were advised by several club doctors that this put them in an ethical conundrum. They advised that from the few cases over the years where a player had returned a positive result from a mid-week test that they had never been put in a position to make a definitive call (as the player had withdrawn themselves or had spoken to the coach and decided not to play due to 'personal reasons').

To address this conundrum under a new policy, if a player presents to a club doctor mid-week and is concerned they have an illicit substance in their system, the doctor should then report this to the AFL CMO whereby a reputable test can be arranged. This should be conducted in a consistent way under the Illicit Drugs Policy, and if the player tests positive the appropriate support and treatment program can be arranged.

Feigning injuries

It was alleged in Parliament (and in an associated statement) that if a player tested positive to an illicit substance during the week, they were then advised to fake an injury and withdraw from the next game to cover up their indiscretion. Club doctors that we spoke to throughout this assessment suggested that this practice is highly improbable in a high-performance environment such as the AFL and they had never witnessed it occur.

No one SIA raised this issue with was aware of anything like this happening (except in the statement where it was raised and it was suggested to the player that this was one option). Most suggested that notification of an injury would spark closer attention from a range of different people within an AFL club to assist with injury management and recovery (such as the coach, football manager, sports science, dietician, physio etc.) and it would soon become evident that there was in fact no injury.

There is no doubt that mechanisms on how players are withdrawn from games should be more transparent so that relevant club staff know why their player is not available, while at the same time navigating doctor-patient confidentiality. It should be noted that players also have the liberty to ask doctors to (or they can) share information about their health status with coaches (and others) if they wish to.

Considerations

- To address the ethical conundrum club doctors are currently placed in, SIA suggests that no illicit drug testing should occur within any AFL club outside the sanctioned AFL Illicit Drug Policy. This will ensure consistency and accountability for all those covered by the policy.

5.5 CLUB AWARENESS ABOUT ILLICIT DRUG USE FROM THEIR PLAYERS

Under the current illicit drugs policy, confidentiality prevents the club officials and coach (except the club doctor) from knowing the identities of players using illicit drugs, or those under a first strike, or those included in the active intervention group. This, the AFL argues, is to preserve the privacy considerations of the player, to enhance their mental wellbeing and protect player/doctor trust and confidentiality.

Some club CEOs (and media commentators) have requested greater involvement by their coaches and staff in terms of managing illicit drug issues among their playing group, insisting they should have more information about the results of drug testing of their players. As one person told us during this assessment, you want to be able to look the parents of players in the eye and say you are doing everything possible to have a club free from illicit drugs.

There is an argument that club CEOs and Chair/Board members should be aware of this information so they can fulfill what they consider to be their responsibilities as executives and directors of clubs and mitigate any workplace health and safety issues from occurring. Parents of players have also expressed concerns in the media. One option could be to develop an escalation point to inform club Chairs/CEOs where concerns to health and safety of players and staff are addressed to prevent injury or death.

As noted, a player can waive confidentiality by advising anyone they wish of their illicit drug use or any mitigation program that they are part of. However, the AFL and club doctors cannot. The AFL, AFLPA and players all agreed to these conditions of confidentiality within the policy.

We were advised that the AFL provides each club CEO with regular reports of testing results and trends across clubs in the AFL competition (including the number of tests and positive tests and the classes of substances detected) in a de-identified form. We were told that this information is shared within clubs to CEOs/Boards through audit and risk reporting (often presented by club doctors).

An alternative point of view has been suggested to SIA by several people, who expressed a concern with the prospect of clubs/coaches using information on player drug use for football department decisions rather than to protect the welfare of the player. This may be a reason such information should be kept confidential.

Considerations

- The AFL could increase transparency and clarity on the illicit drug issue in the game by disclosing (deidentified) figures on an annual basis.
- Club Chairs and CEOs could be advised when an escalation point is reached where concerns to health and safety of players and staff are addressed to prevent injury or death.

5.6 INCLUSION OF AFLW PLAYERS IN THE POLICY

According to media reporting, two AFLW players were charged by police with drug possession in December 2023 and were subsequently suspended for two games by the AFL for "conduct unbecoming" as opposed to a breach of the Illicit Drugs Policy. With growing exposure and wealth in the AFL Women's game in relation to sponsorship, TV coverage and player wages, women athletes will increasingly be exposed to the same risks and concerns regarding anti-doping and illicit drugs and testing in sport. Also, with less education and professional support the risk is disproportionately higher for women.

Considerations

- AFLW players should be subject to the same Illicit Drug Policy and framework when the new policy is developed.
- AFLW players should have access to the same health and wellbeing support services, and education and training support.

5.7 ENHANCING AFL'S EDUCATION PROGRAM

SIA education to sports on illicit and performance enhancing drugs

As Australia's National Anti-Doping Organisation, SIA is responsible for implementing an anti-doping program consistent with international requirements and Australian legislation. It is also our responsibility to deliver an innovative and informed program, which we do by finding creative ways to engage with and educate sport and athletes.

Education is critical in creating awareness on the rules and responsibilities around illicit and performance enhancing drugs. SIA works with all sports to provide advice, support and resources on the risk of using prohibited substances, with more than 65,000 anti-doping education completions each year.

On illicit drugs specifically, SIA provides an eLearning course "*Illicit Drugs in Sport*", print and digital resources including a "*Cocaine in Sport Fact Sheet for athletes*", plus incorporates illicit drug content into 95% of our face-to-face sessions. Through these interventions alone, since 2021 SIA has educated over 20,000 athletes across a range of sports on illicit drug use in sport.

SIA anti-doping education to AFL clubs/players

The AFL currently gives all AFL/AFLW clubs the option to contact SIA to coordinate anti-doping education sessions, but it is up to each club whether they reach out to organise it or not. This year so far, we have delivered anti-doping education (including on illicit drugs) to five AFL clubs: Fremantle, Port Adelaide, GWS, St Kilda and Hawthorn (plus confirmed upcoming sessions with AFLW clubs: Brisbane, Port Adelaide and Western Bulldogs). SIA has presented 35 face-to-face sessions to AFL/AFLW cohorts since 2021:

SESSIONS	2021	2022	2023	2024 (SO FAR)	TOTAL
AFL/AFLW	6	20	4	5	35

Coordinated between the AFL and AFLPA, SIA has also delivered anti-doping education for the last four years at the AFL/AFLW first year player inductions (for the past two years, this also included competition manipulation education).

AFL/club education on illicit drugs

As a Signatory to the WADC, the AFL should comply with the WADC and the International Standards, this includes the International Standard of Education (ISE). The AFL has a responsibility to educate players about anti-doping rights and responsibilities to ensure they are educated about the Code under which they operate.

SIA has worked in partnership with the AFL to review its 2023-25 AFL Anti-Doping Education Plan which captures the key Anti-Doping education programs that are currently or planned to be delivered across each cohort. The plan was based on the WADA 2021 Code Implementation Support Program – Guidelines for the International Standard for Education. SIA continues to work with the AFL in supporting it with the delivery of the Plan.

In regard to talent pathways education, in addition to what is mentioned in the Plan for this cohort the following education is provided:

- All Nationals U16 players that compete at the AFL Talent National Championships (boys and girls) – complete the 101 Sport Integrity Australia education course.
- All National U18 players that compete at the AFL Talent National Championships (boys and girls) – complete the Level 1 Sport Integrity Australia education course.
- The State/Academy Doctors run education sessions for all their state program participants (U16-18 boys/girls) covering Anti-Doping and Concussion.

The AFL Illicit Drugs Policy states that each AFL club must educate players, officers and officials in respect to dangers and consequences of the use of illicit drugs; their respective obligations under the policy; and the sanctions for a breach. It also states that the AFL will provide training to AFL club CEOs, leadership groups and player agents to help them to identify and assist players with mental illnesses.

SIA was advised as part of this assessment from various parties that the AFL's current education program around illicit drugs is not what it was since the Covid pandemic and it is not undertaking the formal training outlined in the policy. We heard that education only went surface level, was a one-size-fits-all approach and was not effective. We also understand that some clubs place greater emphasis on education than others, which is indicated by the limited time some provide for players/staff to do these types of courses.

Currently, the AFL designs their own Anti-Doping online course and hosts this on its learning system. The AFL makes this mandatory for all AFL/AFLW players and it is available for pathway level players. However, both the AFL and clubs acknowledged during this assessment that more education from SIA on illicit and performance enhancing drugs is required, particularly face-to-face sessions with every club.

There is a real opportunity to enhance the AFL and club cultures and affect behavioural change in relation to illicit and performance enhancing drugs through coordinated education and training between SIA, the AFL, AFLPA and AFL Doctor's Association to all levels of the game. SIA suggests the following staged education framework to assist this process.

RECOMMENDATIONS

STAGE ONE (2024)

- AFL to engage SIA to review and tailor their Anti-Doping Education Plan in accordance with the World Anti-Doping Code.
- AFL to mandate the annual completion of eLearning courses for players, coaches, support staff and board members across all AFL/AFLW clubs.
 - Courses include an anti-doping fundamentals course, illicit drugs course, and annual update course.

STAGE TWO (2025)

- Mandatory completion of eLearning continues.
- AFL to mandate SIA face-to-face education for all AFL/AFLW clubs prior to 2025 season commencing.
- AFL and AFLPA continue to work with SIA for First Year Players Induction education sessions.
- AFL to mandate the annual completion of eLearning courses to players, coaches, support staff and board members of State League clubs, and AFL Talent League teams.
 - Courses include an anti-doping fundamentals course, illicit drugs course, and annual update course.
- SIA to provide AFL a seconded staff member (time-limited) to assist AFL integrity education team.

STAGE THREE (2026)

- SIA and AFL to work with State Leagues to offer mandatory SIA-delivered face-to-face education to all State League clubs, on a cost recovery basis.
- SIA and AFL to work with AFL Talent League teams to offer SIA-delivered face-to-face education to all States, on a cost recovery basis.
- SIA and AFL to conduct a joint evaluation of the impact of Stages One and Two on the AFL/AFLW cohorts to inform a review of the collaborative education strategy going forward.

5.8 SPORT SECTOR AWARENESS AND COLLABORATION

It became clear throughout this assessment that players, club doctors, coaches, CEOs, support staff and Board members in all sports could all benefit from greater education of their own anti-doping and illicit drugs policies and processes and could also play a pro-active role in addressing these issues.

Not every sport in Australia has an illicit drugs policy in addition to their anti-doping policy. For the ones that do, the guidelines, processes and sanctions that surround each code's drugs policy are as unique as the sports themselves. When dealing with players who test positive some focus on sanctions, strikes and fines, others use rehabilitation and medical models, while the AFL have a hybrid model that bridges both outcomes.

Regardless of how different Australian sports deal with illicit drugs, there are learnings to be had from each other that could be shared with other sports across the sector, this includes finding out what occurs overseas.

As highlighted above, SIA provides resources, e-learning and face-to-face sessions with many sports, clubs and participants on illicit and performance enhancing drugs, but an annual event or national roundtable where relevant stakeholders across the sporting sector had the opportunity to get together to discuss how they were dealing with illicit drugs issues through their policies, processes and education would be invaluable for all involved. Sports could network and discuss the different models and principles that underpin their illicit drug policies and programs and the pros and cons of each. SIA could also share integrity threat information and discuss integrity capability and resourcing, and education and training needs and experts (including health and medical) could be consulted throughout the event.

Considerations

- A national illicit drugs roundtable event for all sports to be held, that draws on diverse expertise and industries (including government, education, law enforcement, medical, sport and player's associations) to discuss and address illicit drugs in sport.

APPENDIX A:

ILLICIT DRUGS IN SPORT (E.G. COCAINE)

WHY ARE ILLICIT DRUGS BANNED IN SPORT?

A 'Substances of Abuse' category was introduced as part of the 2021 Prohibited List and 2021 World Anti-Doping Code (WADC). Substances in this category are Cocaine, Heroin, MDMA and Cannabis – they have been included because they are known to be frequently abused outside of sport.

All prohibited substances are added to the Prohibited List because they meet two of the three following criteria:

- Use of the substance has the potential to enhance or enhances performance.
- Use of the substance represents an actual or potential health risk to the Athlete; and
- Use of the substance violates the spirit of sport.

Some illicit substances produce an intense 'rush' with users feeling a sense of alertness, arousal, and increased confidence. Substances such as Cocaine can have a performance enhancing effect when used In-Competition and is a Prohibited Substance under the WADC for In-Competition use.

ANTI-DOPING RULES

Under anti-doping rules the use or possession of cocaine is prohibited during the 'In-Competition' period – this begins at 11:59pm the night before a competition and lasts until the end of competition and/or any athlete testing*.

If an athlete is found to have used or possessed cocaine during this In-Competition period, they face a ban from all sport of up to 4 years under the WADC. Since cocaine can stay in someone's system for many days after it was initially consumed, it is possible that an athlete could test positive to cocaine on the day of their event, even if they did not use it during the In-Competition period. If this occurs, the athlete will be given an immediate suspension from sport and will be required to prove that they did not use the cocaine during the In-Competition period. This can involve getting legal representation, medical experts and witnesses. These cases can sometimes also go to a tribunal, and the athlete may be suspended until the process is complete.

If the athlete can prove they used the cocaine Out-of-Competition through this process, they may receive a ban of 1 or 3 months under WADA's 'Substance of Abuse' rules. The amount of cocaine in an athlete's sample can be an indicator of when the cocaine was used, as well as other forms of evidence as part of an investigation.

It is important to note that athletes and their coaches, managers and support staff can also be found in breach of the anti-doping rules for Trafficking or Attempted Trafficking of cocaine. Importantly, these rules do not rely on testing, and apply at all times – not just during the In-Competition period. If an athlete or support person sells or provides cocaine to someone else, they face a ban of 4 years to life.

SPORT RULES

Anti-doping testing only looks for cocaine in samples collected during the In-Competition period – anti-doping laboratories do not look for cocaine in Out-of-Competition samples. However, in addition to anti-doping rules, some sports (like the AFL, Rugby League and Rugby Union) also have rules in place about the use of cocaine

outside of game days, which can include mid-week illicit substance testing. For example, the AFL has its own Illicit Drugs Policy which enables testing of athletes during the Out-of-Competition period. These testing programs, rules and consequences are determined by each sport, not by SIA.

All sports in Australia are also required to have rules in place to recognise any criminal sanction regarding cocaine under their integrity policies (the AFL has 'Standard' policies reviewed and approved by SIA). This means if someone is found guilty of a crime involving illegal drugs, the sport can take action against that person too.

CRIMINAL RULES

The possession, trafficking or use of cocaine can also be a criminal matter and can lead to a criminal record and jail time. Criminal convictions can also be used as evidence in anti-doping matters.

***RULES AROUND ILLICIT DRUGS IN- AND OUT-OF-COMPETITION**

There are differences in Out-of-Competition tests conducted by SIA and those tests conducted by an NSO under an illicit drugs policy. SIA can only test for substances prohibited In-Competition during the In-Competition period. In an Out-of-Competition environment, SIA cannot test for Substances of Abuse but if an athlete uses an illicit substance Out-of-Competition, that athlete needs to be aware that these substances can stay in their system for a period of time, which might mean the substance could be detected In-Competition. Regardless of when an athlete takes illicit drugs if they are still in their system on game day they will be penalised.⁵

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