

INTERNATIONAL STANDARD FOR TESTING AND INVESTIGATIONS (ISTI)

Consultation - Second consultation phase

Nick Paterson, Chief Executive, Drug Free Sport New Zealand (New Zealand)
NADO - NADO

PART ONE: INTRODUCTION, CODE PROVISIONS AND DEFINITIONS

3.0 Definitions and interpretation

3.1 Defined terms from the 2021 Code that are used in the International Standard for Testing and Investigations (ISTI)

Athlete

As DFSNZ has previously submitted, the definition of athlete in the Code is circular. DFSNZ strongly suggests a change to the second sentence: An Anti-Doping Organisation has discretion to apply anti-doping rules to a Participant who is neither an International-Level Athlete nor a National-Level Athlete, and thus to bring them within the definition of "Athlete".

3.2 Defined terms specific to the International Standard for Testing and Investigations

In-Competition

DFSNZ's view is that the in-competition period should begin at 12:00hrs on the day prior to the first day of competition. This is a fairer approach for an athlete who is competing early in the morning of the first day compared to an athlete who is not competing until the evening. The detection window of a substance could result in different consequences for these athletes.

Further to this, it is not clear how alternative definitions would apply to a multi-sport major event such as the Olympic Games. Would different definitions apply depending on the athlete's sport? This has the potential to be confusing for athletes (and ADOs).

Suitable Specific Gravity for Analysis

DFSNZ welcomes this amendment as providing for a more practical approach for athletes who provide a dilute sample.

Vulnerable Person

The ISTI includes a definition of "Vulnerable Person" that is identical to the definition of "Protected Person" in the Code. Definitions should be consistent across all WADA documents. DFSNZ prefers the term "Protected Person".

PART TWO: STANDARDS FOR TESTING

4.0 Planning effective Testing

4.2 Risk Assessment and Test Distribution Plan

4.2.4

DFSNZ notes that the TDSSA is now formally recognised in the Code. We have concerns regarding the inflexibility of the TDSSA and the demand it places on resources that might otherwise be directed more intelligently elsewhere.

DFSNZ proposes that rather than have each NADO apply the TDSSA across every sport it tests (if that is indeed the intent) that the TDSSA should instead be based on risk specific to the individual country - for example, the 10-15 highest risk sports). NADOs would then have discretion (using the MLAs as a guidance) as to whether to apply the TDSSA below a country's highest risk sports. This would enable additional analyses to be applied intelligently, where there is the greatest risk, rather than it becoming a tick box exercise. The TDSSA in its current form restricts the NADO's ability to apply its own thinking

and its own intelligence.

Rather than WADA assessing whether an ADO has 'ticked the boxes' for MLAs it could instead audit an ADO's risk assessment and correlating test plan to gauge that it is understanding and applying an intelligent testing plan.

Further to the above, DFSNZ proposes that where less than 10 tests are carried out in a sport, the TDSSA should simply not apply.

For smaller NADOs that conduct a small number of tests in lower risk sports (i.e. <10) as a deterrent, the TDSSA generates disproportionate numbers of additional analyses required compared to NADOs that do higher numbers of testing (under the TDSSA >1 rule).

For small, remote NADOS, the costs of the additional analyses under the revised Code (and TDSSA) will require either more resources to be found or a drop in the number of overall tests conducted.

DFSNZ would like to better understand the risk assessment behind the TDSSA where for example, it requires ESA analysis for samples collected in the sport of weightlifting. There appears to be an element of adding a 5% requirement for good measure (or just in case) to a number of analyses/sports, which collectively add significantly to the cost and complexity of implementing the TDSSA. This will be particularly challenging when the GH analysis becomes mandatory as the cost of collecting and transporting blood samples in a location remote from a laboratory can be prohibitive in lower risk sports.

4.3 Defining International and National-Level Athletes

4.3.2

4.3.2 b)

It is not clear in this article if the national level athlete criteria must be applied to every sport ("in the sport in question")?

Related to our comments on the TDSSA, DFSNZ has a policy of conducting a small amount (4-8 tests) in selected sports which are not deemed to be high risk in the New Zealand context, but where we wish to maintain a presence (by testing) to have a deterrent effect on athletes in that sport. These sports tend to be low participation where "national level athletes" may well include high school students.

The application of the TDSSA to this testing and the cost and complexity associated with implementing the MLAs (whether conducted in these sports or transferred to other high risk sports as provided for in the TDSSA) may deter DFSNZ carrying out any testing in these sports at all (which may have a downstream effect of enabling doping).

For example, being required to conduct additional analyses in the sport of judo which is considered a relatively low risk (and low participation) sport in New Zealand would likely mean less testing in our higher risk sports such as rowing and cycling.

Where the number of athletes that come within the scope of "national level athlete" has other implications, especially financial, it is to be expected that ADOs will seek to adapt and prioritise in accordance with their resources. However, the inflexible approach of the TDSSA does not permit an ADO to prioritise in this respect.

The national athlete criteria combined with the TDSSA discourages any testing at all in lower risk sports.

4.6 Prioritizing between different types of Testing and Samples

4.6.1

DFSNZ has concerns on what the "criteria" and "protocol" will include to seek an exemption from OOC testing and how much further administrative resource this might require. We often conduct a small number (4-8) of in-competition tests only in sports which are not considered to be high risk in New Zealand. This is in order to maintain an anti-doping "presence" within that sport as a deterrent.

If the criteria or protocols are too complex or demanding, this may discourage ADOs from conducting any testing at all in lower risk sports.

This is connected with our feedback on Article 4.3.2 where the national level athlete criteria combined with the TDSSA further discourages any testing at all in these sports.

This addition creates more "red tape" and further subjugates NADOs being able to think for themselves and act accordingly in the best interests of sport in their country.

4.8 Collecting whereabouts information

4.8.2

DFSNZ suggests there is a typo and this Article should be reworded to:

"....may collect whereabouts information and shall use **this information** ADAMS to conduct effective Doping Control"

DFSNZ does not use ADAMS to plan, coordinate or conduct doping control (i.e. test missions) as ADAMS does not currently meet all its needs in that regard.

4.8.7 General Pool

4.8.7.4

DFSNZ disagrees with the requirement that RTP athlete whereabouts are filed in ADAMS. DFSNZ has a whereabouts system that meets our needs and complies with the requirements under the Code, such as providing access to other ADOs with jurisdiction.

We consider this requirement to be premature ahead of the updated version of ADAMS which is yet to be completed.

9.0 Transport of Samples and documentation

9.3 Requirements for transport and storage of Samples and documentation

9.3.2

DFSNZ strongly disagrees with the change to transport samples to the lab as soon as 'possible' (rather than as soon as 'practicable').

We are located in a remote region, where the cost of transporting individual samples (by air freight to Australia) 'as soon as possible' would be cost prohibitive. Our method of transport is 'as soon as practicable' is fit for purpose.

We suggest this would present even more of a challenge to our Pacific Island neighbours who have less resources.

PART THREE: STANDARDS FOR INTELLIGENCE GATHERING AND INVESTIGATIONS

11.0 Gathering, assessment and use of intelligence

11.4 Intelligence outcomes

11.4.3

DFSNZ supports this change and has already implemented policies and procedures to facilitate and encourage whistleblowers.

PART FOUR: ANNEXES

Annex C - Modifications for Athletes who are Minors

C.4 Requirements

C.4.6

DFSNZ supports this change and further more encourages DCO to document if any athlete declines to have a representative present.

Annex H - Sample Collection Personnel Requirements

H.4 Requirements - Qualifications and Training

H.4.2

H.4.2 c)

It is not entirely clear what constitutes "daily activities of the sport". For example, some sample collection personnel will have children competing regularly in a sport at the local level - we assume this does not prohibit them from being appointed to a test mission?

DFSNZ's view this should be limited to where sample collection personnel have an official role within the sport in question. For example, where someone serves as secretary on a local club committee.

Further to this, DFSNZ notes that while the draft changes mention family members of Sample Collection Personnel who are involved in the sport, it is silent on SCP who participate in the sport themselves.

Certainly all potential conflicts of interest should be documented. However, DFSNZ's view is that there should be some discretion into how conflicts of interest are managed where, for example, a DCO who participates at a very low social level of football should not be preventing from testing in football (subject to any other identified conflicts).

Annex I – Code Article 2.4 Whereabouts Requirements

I.2 Entering and leaving a Registered Testing Pool

I.2.3

DFSNZ objects to the removal of "or another system approved by WADA" from this article.

Where an ADO uses a system that meets all the requirements for whereabouts under the Code and is tailored to suit an ADOs (and their athletes) specific needs, that ADO should be able to use an another system.

The current version of ADAMS does not met the needs of our athletes as well as our alternative system. Further to this, given the new updated ADAMS/Whereabouts system is still in development, DFSNZ considers this change is premature.

DFSNZ supports the provisions that give ADOs the ability to establish other testing pools (below the RTP) to suit their respective needs.