

Summary: Intervention & Options

Department /Agency: Department for Culture, Media and Sport	Title: Impact Assessment for establishing a modernised UK Anti-Doping Organisation	
Stage: Consultation	Version: 1	Date: June 2009
Related Publications:		
Available to view or download at: http://www.culture.gov.uk/		
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What is the problem under consideration? Why is government intervention necessary?

The forthcoming decade sees the UK host a number of high profile international sporting events, including the 2012 Olympic and Paralympic Games in London and the 2014 Commonwealth Games in Glasgow. This is a timely point at which to consider the future delivery of our anti-doping policy, reflecting lessons learned from others around the world in the delivery of their anti-doping programmes; predominantly the development of effective working relationships between anti-doping authorities and law enforcement. Current doping methods are becoming increasingly difficult to detect and it is important to be able to meet this challenge, using means and evidence other than traditional testing, in order to identify doping and catch those who enable doping to take place.

What are the policy objectives and the intended effects?

To establish an independent anti-doping agency ('UK Anti-Doping'), with an expanded remit, before the 2012 Olympic Games in order to:

- support the establishment of information sharing mechanisms with UK law enforcement agencies
- centralise results management and case presentation authority (the decision about whether or not an athlete has committed a doping offence and the authority to present cases to a disciplinary panel)
- to provide a clear focus for anti-doping, reflecting the way it is successfully delivered around the world

What policy options have been considered? Please justify any preferred option.

- Maintain the status quo
- Establish the anti-doping agency as a non-executive NDPB with exclusive results management authority, determination of 'case to answer' and case presentation authority based on an administrative policy framework
- Same as option 2 but based on a statutory framework

Option 2 is preferred in order to provide the clear mandate and credibility of purpose required to ensure maximum impact both in the long term and before the 2012 Olympic and Paralympic Games.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects? After 12 months.

Ministerial Sign-off For Consultation stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister:



Date:

24/04/09

Summary: Analysis & Evidence

Policy Option: 1

Description: Maintain the status quo

COSTS	ANNUAL COSTS		Description and scale of key monetised costs by 'main affected groups'
	One-off (Transition)	Yrs	
	£		
	Average Annual Cost (excluding one-off)		
		Total Cost (PV)	£
Other key non-monetised costs by 'main affected groups' The cost to NGBs of running their own separate anti-doping programmes.			

BENEFITS	ANNUAL BENEFITS		Description and scale of key monetised benefits by 'main affected groups'.
	One-off	Yrs	
	£		
	Average Annual Benefit (excluding one-off)		
		Total Benefit (PV)	
Other key non-monetised benefits by 'main affected groups': The continuation of existing testing and athlete education functions undertaken by the current NADO. The benefit to the international reputation of UK sport, and the benefit to society, of sport in the UK being drug free.			

Key Assumptions/Sensitivities/Risks

Price Base Year	Time Period Years	Net Benefit Range (NPV) £	NET BENEFIT (NPV Best estimate)
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What is the geographic coverage of the policy/option?			UK		
On what date will the policy be implemented?			December 2009		
Which organisation(s) will enforce the policy?			UK Anti-Doping		
What is the total annual cost of enforcement for these organisations?			£		
Does enforcement comply with Hampton principles?			Yes		
Will implementation go beyond minimum EU requirements?			N/A		
What is the value of the proposed offsetting measure per year?			£ n/a		
What is the value of changes in greenhouse gas emissions?			£ n/a		
Will the proposal have a significant impact on competition?			No		
Annual cost (£-£) per organisation (excluding one-off)		Micro nil	Small nil	Medium nil	Large nil
Are any of these organisations exempt?		n/a	n/a	n/a	n/a

Impact on Admin Burdens Baseline (2005 Prices)				(Increase - Decrease)
Increase of	£	Decrease of	£	Net Impact £

Summary: Analysis & Evidence

Policy Option: 2 & 3

Description: Establish the anti-doping organisation as a non-executive NDPB

COSTS	ANNUAL COSTS		Description and scale of key monetised costs by 'main affected groups': Increase in staff by UKAD to take on new functions dealing with: providing drug testing services, centralised case management, intelligence management, science and medical research. The expansion of functions will require the NADO to relocate to new premises.
	One-off (Transition)	Yrs	
	£1.8m	1	
	Average Annual Cost (excluding one-off)		
	£ 3.3m	Total Cost (PV) £ 0	
Other key non-monetised costs by 'main affected groups'			

BENEFITS	ANNUAL BENEFITS		Description and scale of key monetised benefits by 'main affected groups' Consistency of practice across all sports in application of anti-doping rules, ability to develop information sharing mechanisms with law enforcement agencies, ability to comply with current and future WADA Regulations, saving to NGBs through centralisation, a modernised NADO ready and world class before 2012.
	One-off	Yrs	
	£		
	Average Annual Benefit (excluding one-off)		
	£	Total Benefit (PV) £0	
Other key non-monetised benefits by 'main affected groups'			

Key Assumptions/Sensitivities/Risks

The costs for option 2 & 3 are the same. The main difference between the two options is the authority by which the new body is established and executes its functions.

Price Base Year	Time Period Years	Net Benefit Range (NPV) £	NET BENEFIT (NPV Best estimate) £		
What is the geographic coverage of the policy/option?			UK		
On what date will the policy be implemented?			December 2009		
Which organisation(s) will enforce the policy?			UK Anti-Doping		
What is the total annual cost of enforcement for these organisations?			£		
Does enforcement comply with Hampton principles?			Yes		
Will implementation go beyond minimum EU requirements?			N/A		
What is the value of the proposed offsetting measure per year?			£		
What is the value of changes in greenhouse gas emissions?			£		
Will the proposal have a significant impact on competition?			No		
Annual cost (£-£) per organisation (excluding one-off)		Micro	Small	Medium	Large
Are any of these organisations exempt?		n/a	n/a	n/a	n/a

Rationale for intervention

Background

1. Doping in sport is cheating. It is fundamentally contrary to the spirit of sport and is detrimental to the positive impact of sport in society.¹ Sport plays a big role in the life of the nation. Large sums of public money are invested in sport both at the elite and community level. The success of our athletes and teams has the ability to bring the nation together. Sporting events can attract huge audiences generating substantial revenues. Athletes are high-profile figures and act as role models for youngsters. Sport also has a crucial role to play in promoting healthy and active lifestyles through mass participation at the grassroots level. The use of prohibited drugs and methods tarnishes the image of sport, is dangerous for athletes and constitutes bad sportsmanship. There is a clear imperative for all sports to work together, nationally and internationally, towards keeping sport clean and fair.

2. The international fight against sport is coordinated by the World Anti-Doping Agency (WADA).² WADA is an independent non-governmental organisation created through a collective initiative led by the International Olympic Committee following the Lausanne Declaration on Doping in Sport (1999). It is funded equally by the Olympic Movement and the governments of the world to enhance, supplement and coordinate existing efforts to educate athletes about the harms of doping, reinforce the ideal of fair play and sanction those who cheat themselves and their sport.

3. The World Anti Doping Code (the 'Code') is a core document that provides a framework for the harmonisation of anti-doping policies, rules and regulations across all sports and all countries in the world. Governments, including the UK Government, have made a commitment to the Code and have formally recognised the role of WADA through the Copenhagen Declaration on Anti-Doping in Sport (2003).

4. In addition the Government ratified the 'UNESCO International Convention Against Doping in Sport' (2006), further formalising the relationship of the state both politically and legally to the fight against doping in sport. In particular the UK Government committed to:

- Ensuring that Code-compliant anti-doping rules are adopted, policed and enforced vigorously and effectively against athletes and athlete support personnel in the UK;
- Ensuring that national laws contain appropriate measures against trafficking of Prohibited Substances and Methods to athletes
- Encouraging and facilitating cooperation between public and private agencies in the fight against doping in sport

5. Currently there is no EU competency in sport, although the EU will be able to carry out actions to support, coordinate or supplement Member States' actions in relation to sport subject to the ratification of the Treaty of Lisbon.

6. UK Sport, as the UK's National Anti-Doping Organisation (NADO), is responsible for implementing and managing the UK's anti-doping policy and ensuring compliance with the Code.³ Their remit is to establish consistent standards of anti-doping policy, testing and

¹ The World Anti-Doping Code defines the 'spirit of sport' as characterised by the following values: ethics, fair play and honesty, health, excellence in performance, character and education, fun and joy, teamwork, dedication and commitment, respect for rules and laws, respect for self and other participants, courage, community and solidarity.

² <http://www.wada-ama.org/en/index.ch2>

³ UK Sport performs this function through its Drug Free Sport Directorate: www.uk sport.gov.uk/pages/drug_free_sport/

education across the UK and encourage and build upon national and international harmonisation of anti-doping in sport.

7. The creation of the first WADA Code in 2003 provided for the first time a framework against which binding agreements could be made by the NADO with sports albeit on a de-centralised, sport-by-sport basis. As a result of the Code a unique partnership between sport and government developed with conditions on public funding proving effective as the means by which anti-doping compliance is assured. However, National Governing Bodies (NGBs) continue to retain ultimate responsibility for 'case management' - investigating possible anti-doping rule violations and deciding, upon assessment of the evidence, whether an athlete has a case to answer, and the right to bring cases before a tribunal that they have set up under their own rules.

The need for modernisation

8. In 2007 a revised Code was adopted at the World Conference on Doping in Sport in Madrid. It developed further issues of compliance and the approach taken with regard to incidents 'upstream' from the current anti-doping focus: i.e. non-analytical anti-doping rule violations that cannot be detected through analysing athletes blood or urine such as trafficking in, possession of, and supply of prohibited substances and methods (collectively known as 'non-analytical' doping violations).

9. In response to these developments a UK Sport Working Group carried out a strategic and operational review of the NADO's functions. They looked at the NADO's working practices, the relationship it has with NGBs and other key organisations in the fight against doping, in order to assess whether it is well positioned to adopt global 'best practice' in all these areas. It also considered whether the NGBs are best placed to continue to carry out all the elements of 'case management' involved in anti-doping.

10. The Working Group concluded that while UK Sport is world-class in the traditional approach to anti-doping it needs to modernise in order to face the anti-doping challenges that lie ahead and continue to fulfil its obligations under the Code and UNESCO Convention. It is also important for the correct structures be in place to enable the UK to be seen as a world leader in anti-doping, not least because of the increased scrutiny that will occur due to London hosting the 2012 Olympic and Paralympic Games.

11. This requirement to modernise focuses on two main areas:

(i) The need for a centralised case management system

12. The testing, education and research support that UK Sport provides to NGBs under the current anti-doping framework is of a high quality. However in order to equip a modernised NADO the Working Group concluded that it is now not appropriate to exclude the investigation of potential anti-doping rule violations, and the determination of whether an athlete and/or athlete support personnel has a case to answer, to the NGB of the sport in question.

13. The current system suffers from a lack of consistency of practice with most NGBs lacking the resources to run fully effective anti-doping programmes. Nor do they have staff with specialised experience, and as many NGB's only have one or two anti-doping cases a year it is not cost effective for them to develop such expertise. Doping cases are set to become increasingly complex and litigious in the future as methods become harder to detect, and so having a centralised expertise will become increasingly important.

14. International experience suggests the need for an alternative approach. Other leading anti-doping countries, such as Australia, Canada, New Zealand and the United States, have taken the direction of requiring funded sports to transfer their results management and case presentation functions to a central, properly-resourced NADO in an effort to ensure consistent, quality assured and robust case management.

(ii) The need for effective partnership with law enforcement agencies

15. Drug testing remains central to identifying whether an athlete has taken a prohibited substance or method, and is a core part of the NADO's responsibility. However in the past 18 months WADA, in particular, has become increasingly concerned at the influence of 'upstream' doping offenders - those who illegally supply unregulated anabolic agents, hormones and related substances to athlete and athlete support personnel. It has identified a pressing need to develop effective methods of investigating and policing these and other 'non-analytical' violations (such as the trafficking in, administration and possession of prohibited substances and methods).

16. In addition to this, current doping methods are becoming increasingly difficult to detect, with rogue scientists developing substances to beat traditional drug testing methods and athletes using micro-doses of difficult to detect substances to avoid testing positive. It may become increasingly difficult to detect doping in the future. It is therefore important for us to be able to adjust to this reality by tackling those that enable doping to take place, and using means and evidence other than through traditional testing in order to identify doping and catch the cheats.

17. In order to address this, sporting agencies will have to develop effective partnerships with law enforcement agencies. This is demonstrated by the fact that the key recent breakthrough investigations have all involved intervention from the police and other public agencies: 2003 Operation BALCO (US law enforcement agents); 2006 Operation Puerto (Spanish Federal drug agents); 2006 Turin Olympics (Italian police); 2007 Scandinavia Importation (Finish customs officials); 2007 Operation Raw Deal (US Drug Enforcement Agency).

18. In November 2007 DCMS established a Cross-Departmental Anti-Doping Working Group to look at developing this capability within the UK, whose membership includes the Home Office, Serious Organised Crime Agency (SOCA), Association of Chief Police Officers (ACPO), HM Revenue and Customs (HMRC), UK Border's Agency (UKBA), The Medicines and Healthcare products Regulatory Agency (MHRA), Ministry of Justice and the Devolved Administrations.

Policy objectives

19. To secure these outcomes there are three changes proposed to the current structure:

(i) Exclusive results management authority, determination of 'case to answer' and case presentation authority in the NADO

20. Responsibility for all case management, and in particular the determination of whether there is a case to answer, to be centralised and reside with the NADO rather than the NGB. The establishment and implementation of test distribution planning will also reside exclusively with the NADO.

21. Nevertheless if the NGB can demonstrate the necessary competence to prosecute the case to the NADO, and/or that the case could be heard effectively by a Tribunal appointed under its own rules, then case presentation authority and adjudication could, under agreement, be delegated to the NGB. If results management is delegated back it will remain a condition within their funding agreement that they must comply with the National Anti-Doping Policy (and therefore the Code). Any such written agreement will make clear that they must follow their rules which will either be the UK Anti-Doping Rules or their own ones which the NADO will need to have signed off.

(ii) Greater and more effective partnership with law enforcement agencies to fight 'non-analytical' anti-doping rule violations

22. Effective and close partnerships with law enforcement agencies to be formed allowing for the sharing of relevant information. The NADO has an obligation to ensure that potential

violations of the eight anti-doping rules set out in the Code are pursued.⁴ Currently only 3 out of the 8 listed anti-doping rule violations can be detected by analytical methods – i.e. by testing athletes (presence of a prohibited substance or method; refusing or failing to give a sample; and 'whereabouts' violations). In addition, many drugs on the WADA Prohibited List cannot be detected through the testing of athlete samples. It is therefore necessary to expand the functions of the NADO to include intelligence analysis and information-sharing with public and private bodies.

(iii) The separation of the NADO operation from UK Sport

23. Effecting the changes above, with a resulting increase in scale of the anti-doping operation, will see the role of the NADO outgrow its current position within UK Sport. Moreover setting the NADO up as an independent body will provide a focused body reflecting the way anti-doping is successfully delivered around the world. It will also remove any perceived conflict of interest arising out of UK Sport's dual funding and anti-doping role. Addressing such a perception is important when case management authority is transferred from the NGBs to the new NADO.

Policy Options

Option 1: Status quo

24. Responsibility for anti-doping would remain within UK Sport without significantly expanding its functions beyond testing, education and limited research. However this would not equip the UK's NADO for the future challenges identified by WADA. Whilst UK Sport is committed to working with law enforcement agencies in order to move 'upstream' in the fight against doping this may be hard, if not impossible, to deliver by an organisation with the range of responsibilities of UK Sport and none of the results management responsibilities central to such information sharing.

Option 2: Establish the anti-doping agency as a non-executive NDPB with exclusive results management authority, determination of 'case to answer' and case presentation authority based on an administrative policy framework

25. Having consulted with law enforcement agencies, it is clear that the current, de-centralised model of anti-doping delivery would cause barriers to information sharing – namely through the presence of third parties (e.g. the NGBs). This requires the establishment of a NADO with exclusive results management authority and the ability to determine a case to answer effectively through a centralised case management system.

26. This option entails taking the existing policy-based approach to anti-doping – withholding public funding or suspending testing from any sports body that is not compliant with the Code - but extending it to make the public funding of a sport conditional on its NGB accepting that the NADO has enhanced functions including exclusive results management authority with respect to potential anti-doping rule violations by that NGB's athletes and athlete support personnel. An NGB would not be entitled to investigate and assess evidence of anti-doping rule violations itself, but instead would be required to turn over such evidence to the NADO and cooperate with the NADO in its own determination of whether or not there is a case to answer.

27. However once the NADO has decided there is a case to answer, the NGB of a sport demonstrating the necessary competence can prosecute that case, and/or that case can be heard by a tribunal appointed under the NGB's rules.

⁴ The eight anti-doping rule violations are as follows: Presence (of a prohibited substance or method), Use or Attempted Use, Refusing Sample, Whereabouts Violations, Tampering, Possession, Trafficking, Administration of a prohibited substance. See Article 2 of the World Anti-Doping Code: http://www.wada-ama.org/rtecontent/document/code_v2009_En.pdf

28. A disadvantage with a policy-based approach is that NGBs could in theory opt out entirely if they could afford to renounce public funding. However the NADO has the ability to withhold testing or refuse to undertake contracted testing (i.e. remove them from the testing programme) and also to withhold any educational resources. In addition there is also the threat of suspension from an International Federation and BOA membership.

Option 3: Establish the anti-doping agency as a non-executive NDPB with exclusive results management authority, determination of 'case to answer' and case presentation authority based on a statutory framework

29. Under this option the functions of the NADO would be embedded in legislation giving the agency clearly defined powers and a mandate for information-sharing with law enforcement agencies.

30. However, as discussed in option 2, legislation is not required to vest the results management authority in the new anti-doping organisation as this can be achieved using the current policy-based approach (i.e. by making recognition of such authority a condition of receipt of public funding). The Government has resisted intervening unnecessarily in the business of sport and has not historically legislated in this area.

Costs and Benefits

Increased functionality

31. The primary focus of the current NADO is to tackle analytical anti-doping rule violations. To this end, its main functions focus around the following areas:

- Testing: UK Sport provides drug-testing services to UK NGBs on a 'public interest' and/or 'contracted' basis. . Public interest tests are provided to NGBs free of charge. Contracted tests are undertaken for NGBs wishing to supplement their public interest testing allocation or wishing to purchase all of their tests because they who do not qualify for any public interest testing. These services include designing and implementing test distribution plans with elements of in-competition and out-of-competition (no notice) target testing designed to meet the needs of the Code and the needs of a particular sport. In 2008/09 a total of 7,545 missions were conducted. Of these approximately 2,500 were contracted. They also review and investigate analytical results as necessary, referring all adverse analytical findings to the NGB for consideration and monitoring the results management process of these.
- Education: UK Sport runs an anti-doping athlete education programme (called '100% ME') for the benefit of sports in the UK.
- Research: Through its links with the Drug Control Centre at King's College London and other experts, UK Sport is able to contribute to anti-doping research efforts to the benefit of all sports.

32. In order to achieve the desired enhanced functionality outlined above, the new NADO will continue to carry out these functions (with the testing function expanded for the NADO to have complete authority over testing distribution planning, a function currently shared with NGBs) and three new major anti-doping business functions will be added:

- Case Management: the preparation and presentation of a case against athletes and/ or athlete support personnel who are charged with an anti-doping rule violation
- Intelligence Management: to collect, record, collate and analyse information relating to drug use in sport in order to inform intelligence-led targeted testing on athletes and assist the criminal prosecution of upstream offenders. Managing the sharing of information with law enforcement agencies.
- Science and Medicine: responsible for improving the NADO's understanding of doping practices and the threat to sport of such practices. Provide data and expertise necessary

to support intelligence-based testing. To analyse and interpret trends around doping to better define detection procedures.

33. The increase in staff and separation from UK Sport will require the expanded NADO to relocate to new premises (location yet to be determined).

Costs

34. **Staff** - In order to deliver these new functions effectively the new NDPB will require approximately 54 staff. The current number of staff working in the Drug Free Sport Directorate at UK Sport is 22.

Function	No.
CEO (plus PA)	2
Director of Anti-Doping	1
Case Management	7
Testing	10
Intelligence Management	8
Science & Medicine	5
Education & Athlete Services	7
Operations	14
TOTAL	54

35. **Budget** - the new NDPB will have a budget of approximately £7.3m, of which £6.95m will be Grant-in-Aid from the DCMS. The Grant-in-Aid budget allocated to Drug Free Sport in 2008/09 was £3.65m. The increase of £3.3m Grant-in-Aid will deliver the increased functionality outlined above. The NADO also receives additional income from testing and this accounts for the difference between the Grant-in-Aid and final budget costs.

The table below gives an indication of what the extra funding will be used for:

	(£m)	(£m)
	Spend	Budget
	2008/09	2010/11
Communication & Education	399,750	650,000
Testing	2,093,827	2,010,000
Intelligence Management	-	100,000
Case Management	396,432	580,000
Science & Medicine	-	100,000
Corporate Services	266,423	1,220,000
Building Lease	-	250,000
Staff Salary Costs	1,062,368	2,370,000
TOTAL	4,218,800	7,280,000

36. **Transition costs** – these are fixed at £1.8m and cover the costs of: moving to and refitting the new office, installing the IT infrastructure, branding the new organisation, consultancy and interim staff costs (e.g. salaries for staff recruited prior to the date UKAD starts operating, Board member expenses).

Budget line	Cost (£)
IT infrastructure	450,000

Office refit and removal	220,000
Staff costs	223,400
Consultancy (Legal, IT, project management, office refit, etc)	410,000
Rebranding of organisation	115,000
SUB-TOTAL	1,418,400
VAT @ 15%	221,375
Contingency	163,978
TOTAL	1,803,753

Benefits

37. The main benefits of the enhanced NADO are:

- Consistency of practice across all sports through centralised investigations and results management, case presentation and adjudication
- Ability to develop information sharing mechanisms with law enforcement agencies
- Ability to comply with current and future WADA directives
- A modernised NADO ready and world class before London 2012.

Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.

Type of testing undertaken	<i>Results in Evidence Base?</i>	<i>Results annexed?</i>
Competition Assessment	No	No
Small Firms Impact Test	No	No
Legal Aid	No	No
Sustainable Development	No	No
Carbon Assessment	No	No
Other Environment	No	No
Health Impact Assessment	No	No
Race Equality	No	No
Disability Equality	No	No
Gender Equality	No	No
Human Rights	No	No
Rural Proofing	No	No