

# **UK Sport Funding Eligibility Policy**

## **Consultation Summary Document**

### **Introduction**

This summary report details the responses from the UK Sport consultation process undertaken on the proposed Funding Eligibility Policy for Athletes and Athlete Support Personnel (ASPs).

### **Background**

The purpose of the consultation was to assess the views of the public and stakeholders in terms of the overall positioning of a proposed policy around our investment of public funds in athletes and those support staff who work with them.

As the guardians of elite sports funding in the UK, UK Sport takes its responsibility to promote high standards of conduct among our Olympic and Paralympic athlete population very seriously.

It is this responsibility to continue to 'inspire a generation' through our elite athletes' achievements that has led us to take a closer look at the eligibility of individual athletes, as well as their support personnel, to benefit from public and National Lottery funds, based on their conduct, to include areas such as criminal convictions, match fixing and corruption, doping, disrepute and false representations.

The purpose of the consultation on the draft policy and procedure was to check its consistency with the expectations of stakeholders most likely to be impacted by the policy on its practicality and implementation; to ensure that there were no critical issues or considerations missed in the design of the policy and procedure before their formal introduction.

### **Approach**

The consultation had a window of over four weeks, commencing on August 12 and closing September 9. Although sports were made aware of the key elements of the draft policy as early as February this year and were reminded at key touch points including key face-to-face events, communiqués and through 1:1s where there were known to be issues.

For the consultation we identified three discrete target groups; designing different approaches to engage with them as below; the consultation was also open to all members of the public, through the UK Sport website.

Group	Detail/method of engagement
<p>General Public</p>	<p>Engagement with the public was delivered primarily through the UK Sport website.</p> <p>A web page <a href="http://www.uk sport.gov.uk/consultation">http://www.uk sport.gov.uk/consultation</a> was created with introductory text establishing broad principles/key questions, encouraging members of the public to respond and give their views.</p> <p>The web page contained links to download the Draft Policy, Draft Rules and a short Question &amp; Answer document.</p> <p>The consultation was promoted through a web story on the site and via UK Sport Twitter (both on the launch date and a follow up reminder before the close of the consultation)</p> <p>A Press Release was also issued to coincide with the launch of the consultation</p> <p>A dedicated email address was established for people to email provide their views.</p>
<p>Stakeholders including:</p> <ul style="list-style-type: none"> <li>• All currently (and previously) Performance-funded sports (Chairs, CEOs &amp; Performance Directors)</li> <li>• Institute leads</li> <li>• UKAD</li> <li>• Home Nation Sports Councils</li> <li>• British Athlete Commission</li> <li>• British Olympic Association</li> <li>• British Paralympic Association</li> <li>• Sport Resolutions UK</li> <li>• DCMS</li> </ul>	<p>In addition to the above, a communique (style of formal email that UK Sport uses with its key stakeholders) was sent to the stakeholders on the left.</p> <p>These funded or non-funded organisations were considered to be those which would be most impacted by the policy.</p> <p>The communique had the full draft policy, draft rules and the Q&amp;A document attached, and requested that all agencies discuss and distribute as required to key support personnel for individual or organisational responses.</p> <p>A brief reminder to these parties was sent a week before the closure of the consultation.</p>
<p>Second Stakeholder Group including:</p> <ul style="list-style-type: none"> <li>• Sport &amp; Recreation Alliance</li> <li>• United Kingdom Sports Association for People with Learning Disability (UKSA)</li> <li>• Sports Aid Trust (TASS)</li> <li>• National Coaching Foundation (SportscoachUK)</li> <li>• Camelot</li> <li>• Ministry of Justice</li> <li>• Home Office</li> <li>• Criminal Justice Alliance</li> </ul>	<p>An electronic letter was sent to a secondary list of consultees, identified as 'interested parties' who may have an interest in any policy implemented.</p> <p>The letter also had the full policy, draft rules and the Q&amp;A document attached.</p>

Group	Detail/method of engagement
<ul style="list-style-type: none"> <li>• Information Commissioner's Office</li> <li>• Youth Justice Board</li> <li>• Magistrates' Association'</li> <li>• The Law Society</li> <li>• NACRO</li> <li>• Gambling Commission</li> <li>• BASES</li> <li>• NLPU</li> </ul>	
Athletes	<p>A separate Athlete Letter on behalf of Liz Nicholl was drafted for circulation, explaining the consultation and its significance for athletes specifically.</p> <p>All World Class Programme Performance Directors (in Stakeholders above) were asked to confirm if they would forward the Letter with supporting resources to athletes, or if UK Sport was required to assist/send directly.</p> <p>A separate email address was set up to enable athletes to respond so that we could distinguish between athlete views and those of the public/stakeholders.</p>

### Responses – Quantitative

In total we received formal responses from 19 National Governing Bodies, representing 24 World Class Programmes (Olympic & Paralympic) the large majority of which are receiving UK Sport investment for 2013-17.

Seven partners also sent responses (six from the first group).

From members of the public, we received two responses and three direct responses from athletes (although in the case of the latter, several NGBs took the views of athletes into account in the production of their own feedback).

### Responses – Thematic

While there have been a number of valuable drafting points to emerge (see below for more information), the consultation did not highlight any significant areas for concern or critical issues in terms of the policy's general principles, or any unforeseen impacts or consequences.

On examination of the responses, some grouping was undertaken, to explore areas which were consistently highlighted. While we have considered all feedback and comments, the below table highlights some of the main points on a thematic basis.

Analysis of the responses has identified a number of emerging themes which are worthy of consideration, shown below, along with the consultees who noted them, and our comments/responses.

Theme	Consultee	Action/Notes
<p><b>Broad support for the principles of the policy</b></p> <p>Support from all consultees – Stakeholders, Athletes and Public who responded – for the principles of the policy regarding UK Sport’s responsibilities for scrutinising direction of public funding and publically-funded benefits</p>	All	N/A
<p><b>Disrepute - clarification of terminology and definitions particularly to avoid subjectivity</b></p> <p>There was a particular question over the definition and scope of “disrepute” as defined in 2.7, around social media etc, and its comparability/severity compared with some of the other offences in the policy</p>	Archery, B/ball, BTF, BEF, GBP, RYA, BPA, BAC, SRA	<p>We have redrafted certain sections of the Policy, particularly around the definition of disrepute, to clarify that fair comment and/or comment on sporting tactics should be unimpaired, as would be whistleblowing on illegal acts or practices (see section on Misconduct &amp; Disrepute)</p> <p>We have provided a list of examples (not exhaustive) to demonstrate what might be defined as disrepute for illustrative purposes.</p>
<p><b>Increased bureaucracy and process/wider implications for NGBs and partners, especially around reliance on athlete and ASP honesty and self-disclosure</b></p> <p>Questions over whether the proposed approach and implications of implementation will additionally burden NGBs who will need to ‘check’ more rigorously and may not have appropriate process/staff.</p> <p>Additionally, that NGBs might not have adequate ‘first stage’ processes in terms of hearings/disciplinary procedure and ensuring equal/fair process.</p>	RYA, WCBball, BEF, BC, EH, BPA, SIS	<p>Whilst accepting the point raised, it is not UK Sport’s intention that this policy be applied by sports, or that their internal processes be affected, other than that we would expect there to be some alignment of topics covered by NGBs own policies to ensure that NGBs can make decisions should situations arise.</p> <p>Our starting position when such a scenario arises is that NGBs should make a decision first and foremost. As the policy states, UK Sport will react to decisions of NGBs in determining and in most cases does not anticipate a separate funding decision to be made. However if a separate funding decision is necessary then UK Sport will make it in accordance with the policy and procedure.</p> <p>We do not envisage additional monitoring to be undertaken, we expect athletes and ASPs to self-declare and be open and honest, and further that we will not be undertaking (nor do we require that sports/partners undertake) CRB checks.</p>
<p><b>Impact of funding decisions in doping cases</b></p>	Archery, BEF, TF	We can confirm that we have liaised fully with the appropriate partners,

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<p><b>and additional sanctions</b></p> <p>Questions were raised through some responses about the implications of the funding ineligibility policy conflicting with and potentially being considered as an additional sanction.</p> <p>Further questions also raised about how 'lesser' offences i.e. an offence which carried a ban of less than two years would be considered, and why the two-year sanction is being considered as 'sacrosanct' in terms of determining a 'trigger' for UK Sport's policy</p>		<p>namely UKAD, in the drafting of the policy and through the consultation.</p> <p>We are not preventing the athletes or athlete support personnel from participating or competing in sport, or representing GB, we are merely making decisions on whether or not they should have the privilege of public or National Lottery funding to do so.</p> <p>Subsequently, regarding doping offences, the funding consequences which may follow have been set out in the policy.</p> <p>With regard to a 'lesser' doping offence i.e. one which carries a lesser sanction than two-year competitive ban, we have clarified our position in the policy, which is that we will follow our obligations under the National Anti-Doping Policy and not apply our separate funding consequence.</p> <p>The rationale for retaining the two year definition is that the only way in which an Athlete or ASP can reduce their sanction below two years is if they have established no fault or no significant fault, or no intention to enhance performance; whereas if they have received a sanction of two years it is because they have failed to do that.</p> <p>In these circumstances UK Sport has decided to take this as a legitimate dividing line because UK Sport cannot re-open the circumstances of every doping case.</p>

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<p><b>Sport as a Rehabilitative activity for ex-offenders and the opportunity for a 'second chance' and disproportionate impact on ex-offenders</b></p> <p>Consideration that the policy should not obstruct or damage the strong redemptive powers offered by sport and the opportunities for athletes/ASPs to have a second chance if appropriate and deserved.</p> <p>A suggestion was raised that some sports on the WCP would be disproportionately affected by this policy due to the nature of certain sports and the criminal background of ASPs and athletes.</p> <p>Further, there were questions around the nature of offences which might be considered under this policy (notwithstanding our position on 'unspent convictions')</p>	<p>Public, Athletes, BABA, BTF, WCB/ball, BPA, WIS</p>	<p>The ability to take into consideration mitigating factors, including rehabilitation, is one of the driving reasons for the implementation of the policy.</p> <p>As all decisions, which should not be pre-empted, will be made on an individual basis by the sub-committee, it provides a mechanism and opportunity for the case to be made, so providing flexibility to consider all the circumstances.</p> <p>We are conscious that sport in itself is an activity that can aid rehabilitation, particular for ex-offenders and recognise and echo the comments of consultees to that effect. We will monitor the impact against the protected characteristics under the Equality Act 2010.</p> <p>A list of illustrative examples of criminal offences (not exhaustive) has been added to the policy to provide context.</p> <p>Addressing the point on the potential disproportionate effect on certain athletes, we recognise that some sports may perceive themselves to be at risk of being disproportionately impacted, we are confident that the proposed approach will enable the policy to be applied equitably and evenly across all sports.</p> <p>The options available to the subcommittee, particularly to dis-apply certain criteria and take into consideration mitigation and rehabilitation will also help to ensure that every decision would be made on an individual basis, and that athletes, ASPs, and/or NGBs/partners will have the opportunity to make their case.</p>
<p><b>Retrospective/historical implementation</b></p> <p>Whether the proposed policy would be implemented retrospectively and the legal and practical considerations of any retrospective</p>	<p>Public, Athletes, BABA, EH, WIS, SRA</p>	<p>The policy will not be applied retrospectively.</p> <p>The criteria looks at past conduct with a view to making current and future funding. If an athlete or ASP is in current receipt of funding and publicly funded benefits and breaches the policy</p>

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implementation.		<p>then there is a risk of claw back of funding for the period in which they were in breach of policy.</p> <p>However we will not go back to the time when conduct under question was demonstrated and (if the athlete was funded at that time) seek to declare an athlete eligible as of that time and seek claw back from that point in time as this would be retrospective.</p>
<p><b>Assumption that all athletes/ASPs who contravene the policy would be automatically considered ineligible to receive public funding</b></p> <p>Consultees responded demonstrating a misunderstanding that decisions around eligibility to receive funding would be predetermined e.g. an athlete with an unspent conviction would automatically be ineligible to receive funding. Some individual examples of athletes were cited who would not have received funding on that basis.</p>	Public, Athletes, BABA, WCBball	<p>As all decisions on the application of the policy will be made by the Sub-Committee, no athlete or ASP would automatically be presumed to be ineligible for public funding or publically funded benefits.</p> <p>Any individual will have a full opportunity to present their case and evidence to the sub-committee as set out in the Rules of Procedure.</p> <p>Although, as is stated in the policy, the removal of public funding or publically funded benefits might be a consequence.</p>
<p><b>Overall procedural fairness; right to a hearing; the Sub-Committee's Status and Decisions; the Appeal Panel's independence and decision making powers</b></p> <p>Questions were raised around UK Sport making its decisions under the rules of natural justice; the athlete or ASP as a matter of course having a right to a hearing; the composition of the Sub Committee to ensure suitable independence; also around two members of Appeal Panel being members of Sport Councils; the Appeals Panel decision making powers.</p>	GBA, BEF, BAC, SIS	<p>The Policy and Rules of Procedure ensure that decisions made under them will be made in accordance with natural justice or procedural fairness: in other words fairly, impartially and where appropriate after a proper opportunity to be heard with proper representation.</p> <p>We would point out that the decisions made by the Sub-Committee are UK Sport administrative funding decisions.</p> <p>The Sub-Committee is not an independent review body taking a quasi-judicial decision, impartially deciding a dispute between two parties. That role is fulfilled by the Independent Appeal Panel, which considers matters de novo, impartially, fairly, and where appropriate after a hearing with representation, and which can replace the Sub-Committee decision with its own.</p>

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		<p>This is now made clear in the appeal procedure rules, so assuring the the procedural fairness of the process overall.</p> <p>While the Sub-Committee makes a UK Sport administrative decision, it is now made clear in the rules of procedure that it will do so fairly after the Athlete or ASP or their representative has had an opportunity to address the Sub-Committee.</p> <p>Further we have made it clear that the Appeal Panel members will be all selected by SRUK and the wing members will be lay members.</p> <p>We have deleted references in the appeal rules to recommendations and all the powers of the Appeal Panel will be same as those of the Sub-Committee as referenced in the Policy.</p> <p>As highlighted below, we have clarified that performance and selection matters are not within the jurisdiction of either the Sub-Committee or the Appeal Panel.</p>
<p><b>Performance &amp; Selection/Right to represent GB as part of Team GB or Paralympics GB</b></p> <p>A request for greater clarity around performance and selection issues which sit outside conduct.</p> <p>The issue was raised that it is worthy of note that UK Sport has no involvement in the selection of athletes onto the WCP, neither does it have the right to prevent the selection of an athlete or ASP for Team GB/Paralympics GB who is not eligible for Public Funding.</p>	<p>Various inc BAC, BPA</p>	<p>We have added additional comment in the introduction to the policy clarifying that this policy does not apply to any issues of performance and selection or the performance/funding status of athletes. This is also referenced in the rules of procedure.</p> <p>We have included points of clarification highlighting that UK Sport has no right to prevent the selection of non-funded athletes to represent GB in the final version of the policy, as opposed to the Q&amp;A, where they were originally positioned.</p> <p>This has been further clarified with key criteria now described as Essential Requirements, as they are outside of UK Sport's responsibility, and so cannot be dis-applied.</p>
<p><b>Implications of being ineligible to receive public funding or publically-funded benefits</b></p>	<p>Various inc BAC</p>	<p>We have included specific detail on the potential implications, with named, specific examples of support or benefits that might be considered Publically-Funded Benefits and that an</p>

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There was a request to ensure through the policy that there is a proper understanding of what is meant by declaring an individual ineligible to receive public funding/publically funded benefits, and further, what the implications of repayment might be.		<p>athlete/ASP might be therefore not entitled to receive.</p> <p>As illustrative examples only, this recognises some common areas, although sports' WCPs are different in nature and offer.</p>

## Conclusion

The consultation exercise has provided valuable input which has directly informed the final policy and procedure. We have considered the views of stakeholders that have responded to this consultation and have attempted to ensure that there are no critical issues or considerations missed in the design of the policy and procedure ahead of its introduction. We'd like to thank all those who have contributed.