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# Australian Curling Federation

## Illicit Drugs Policy

**VERSION 1.0**

**Adopted April 2020**

# CURLING

## Policy Document

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## Illicit Drugs Policy

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# Illicit Drugs Policy

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## POLICY PURPOSE

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- a) This Policy aims to provide guidelines on restrictions and raise awareness about *Illicit Drug* use in our sport. The policy is implemented with the following four pillars to safeguard our sport from the dangers of *Illicit Drugs*:
- i. **Health:** To protect the health and well-being of our *Athletes, Athlete Support Personnel*, and other Persons who are involved with the promotion and participation of our sport.
  - ii. **Educate:** To educate our *Athletes and Athlete Support Personnel* and other Persons involved in our sport on the dangers of involvement with *Illicit Drugs*.
  - iii. **Integrity:** To assist in safeguarding the integrity of our sport by minimising the risks that can stem from *Illicit Drug* use such as; criminal influence and potential compromise of *Athlete or Athlete Support Personnel* and/or criminal charges, breach of anti-doping rules, damage to the reputation of the *Person* and the AUSTRALIAN CURLING FEDERATION, and a ban from sport.
  - iv. **Rehabilitate:** To provide assistance to an *Athlete or Athlete Support Personnel* who is found to have an involvement with *Illicit Drug* use, so they may take advantage of programs to facilitate their rehabilitation.

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## POLICY STATEMENT AND OBJECTIVE

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- a) This Policy is designed to operate alongside other policies including, but not limited to, the, The Rules of The Australian Curling Federation, and The Australian Curling Federation National Member Protection Policy, World Curling Anti-Doping Rules 2016 v6.0 (or most recent), the Australian Sports Anti-Doping Authority's (ASADA) Whereabouts and Athlete Privacy policies, the World Anti-Doping Code (WADA), and the International Olympic Committee (IOC) Anti-Doping Rules applicable to current Olympic cycle which has been adopted by the AUSTRALIAN CURLING FEDERATION to ensure that AUSTRALIAN CURLING FEDERATION competitions are conducted upon the basis of fair play and natural levels of fitness and development.
- b) This Policy is introduced to protect *Athletes, Athlete Support Personnel* and other Persons involved with our sport, from using or being involved with substances that may negatively impact their health and reputation, and the reputation and integrity of our sport.
- c) The AUSTRALIAN CURLING FEDERATION will not tolerate unlawful activity associated with *Illicit Drugs*. If the AUSTRALIAN CURLING FEDERATION becomes aware of unlawful activity it will be reported to the police.

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## APPLICATION

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- a) This Policy applies to the following *Persons*:
- i. all AUSTRALIAN CURLING FEDERATION *Athletes*;
  - ii. and *Athlete Support Personnel* (whether employees, contractors, volunteers or otherwise) dealing with those AUSTRALIAN CURLING FEDERATION *Athletes*;
  - iii. any other *Athlete* or *Athlete Support Personnel* as determined and notified by the AUSTRALIAN CURLING FEDERATION; and
  - iv. any other *Person* identified by the AUSTRALIAN CURLING FEDERATION who has agreed to be bound by this Policy.
- b) Compliance with this Policy is a mandatory requirement for the continuation of funding and support for all AUSTRALIAN CURLING FEDERATION *Athletes* and *Athlete Support Personnel* dealing with those AUSTRALIAN CURLING FEDERATION *Athletes*, and is a condition of their participation and/or involvement in the sport.

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## DEFINITIONS

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- a) **Athlete** includes any person who competes in sport.
- b) **Athlete Support Personnel** is as it is defined in the World Anti-Doping Code.
- c) **Drug** is a term of varied usage. In medicine, it refers to any substance with the potential to prevent or cure disease or enhance physical or mental welfare. In pharmacology, it means any chemical agent that alters the biochemical or physiological processes of tissues or organisms. (*United Nations Office on Drugs and Crime* <https://www.unodc.org/unodc/en/illicit-drugs/definitions/>)
- d) **Hearing Panel** is as described in Article 11 and Appendix A of this Policy.
- e) **An AUSTRALIAN CURLING FEDERATION Athlete** is any *Athlete* who is endorsed to receive funding or support from the AUSTRALIAN CURLING FEDERATION and/or outside agencies such as Olympic Winter Institute of Australia, Australian Olympic Committee, municipal, state or federal governments.
- f) **Illicit Drug** refers to the status of the Drug and includes those defined in Section 5 of this Policy.
- g) **Person** means any natural person, including *Athletes* and *Athlete Support Personnel*.
- h) **Possession** is as it is defined in the World Anti-Doping Code.
- i) **Sample** means any biological material collected for the purposes of this Policy, with the intent of undertaking analysis in accordance with the applicable Australian Sports Anti-Doping Authority (ASADA) analysis policies and guidelines.
- j) **Testing** means any Sample collection undertaken by ASADA or an authorised representative such as WADA, for the purposes of this Policy, in accordance with ASADA's applicable testing policies and procedures.
- k) **Trafficking** is as it is defined in the World Anti-Doping Code.

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## ILLICIT DRUGS

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- a) The *Illicit Drugs* prohibited under this *Illicit Drugs* Policy are those *Drugs* considered illegal under legislation of the state or territory where a breach occurs, as well as those listed in Schedule 3 of the *Criminal Code Regulations 2002 (Cth)* as amended from time to time.

- b) If an *Illicit Drug* has been lawfully and properly prescribed by a medical practitioner for a legitimate therapeutic purpose and evidence can be provided to that effect, then the use or *Possession* of the *Illicit Drug* may be exempt from prosecution under this Policy.

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## ATHLETE AND ATHLETE SUPPORT PERSONNEL RESPONSIBILITY

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- a) Strict Liability
- i. *Athletes* are personally responsible for anything found in their system. Ignorance is no excuse. An *Athlete* should ensure they are personally satisfied that any advice they receive regarding the use of any substance (including a prescribed *Drug*) is accurate and up to date.
- b) An *Athlete* must:
- i. be knowledgeable of and comply with all rules applicable to them under this Policy.
  - ii. be aware of and keep up to date with which *Illicit Drugs Athletes* are prohibited from using under this Policy;
  - iii. not use any *Illicit Drugs*;
  - iv. only use medications and other substances in accordance with directions from the doctor, manufacturer or pharmacist;
  - v. not supply any other *Person* with medications or other substances that may breach this Policy;
  - vi. use their influence on other *Athletes* to deter any involvement with, or use of *Illicit Drug*;
  - vii. submit to and co-operate with requests to provide *Samples* for the purposes of *Testing* in accordance with this Policy;
  - viii. proactively participate in all education programs promoted or shared by AUSTRALIAN CURLING FEDERATION to deter the use of *Illicit Drugs*;
  - ix. act in a discreet and confidential manner in discharging their obligations under this Policy;
  - x. comply with all reasonable requests by the AUSTRALIAN CURLING FEDERATION to participate in education, rehabilitation and counselling where appropriate; and
  - xi. behave in a manner that is consistent with the spirit and intent of this Policy.
- c) *Athlete Support Personnel* and other *Persons* must:
- i. be knowledgeable of and comply with all rules applicable to them and the *Athletes* whom they support under this Policy;
  - ii. not use any *Illicit Drugs*;
  - iii. comply with all reasonable requests by the AUSTRALIAN CURLING FEDERATION to complete education, counselling, or rehabilitation where appropriate;
  - iv. only use medications and other substances in accordance with directions from the doctor, manufacturer or pharmacist;
  - v. not supply any other *Person* with medications or other substances that may breach this Policy;
  - vi. be aware of and keep up to date with which *Illicit Drugs* are prohibited under this Policy;

- vii. use their influence on *Athletes* and other *Athlete Support Personnel* and other Persons, to deter any involvement with or use of *Illicit Drugs* and assist them in understanding the harm associated with using or being associated with *Illicit Drugs*;
- viii. act in a discreet and confidential manner in discharging their obligations under this Policy; and
- ix. Behave in a manner that is consistent with the spirit and intent of this Policy.

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## AUSTRALIAN CURLING FEDERATION RESPONSIBILITY

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### a) AUSTRALIAN CURLING FEDERATION must:

- i. adopt, implement and comply with this Policy;
- ii. ensure that all policies, rules, programs and suchlike that are provided for use by AUSTRALIAN CURLING FEDERATION members are consistent with this Policy;
- iii. develop and implement appropriate education and prevention programs and initiatives to deter the use of *Illicit Drugs* and to provide education about the harms associated with using *Illicit Drugs*;
- iv. use its best efforts to assist all those to whom this Policy applies to fulfil their responsibilities under this Policy; and
- v. ensure its employees and contractors act in a discreet and confidential manner in discharging their obligations under this Policy.

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## EDUCATION AND SUPPORT PROGRAM

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### a) Education Program

- i. AUSTRALIAN CURLING FEDERATION will either use existing programs such as the Department of Health's Illicit Drugs in Sport (**IDiS**) online education program, the Australian Sport and Drugs Authority (ASADA) elearning platform, or will develop and implement appropriate education and prevention programs and initiatives designed to promote the key messages of this Policy, and to provide guidance to those Persons who have breached. The programs will be delivered to target groups through appropriate mediums.
- ii. The key messages to be promoted include:
  - Illicit Drug use is harmful;
  - Illicit Drug use can have a negative impact on your sporting performance;
  - Illicit Drug use can harm your reputation and sporting career;
  - Illicit Drug use can damage the reputation of your sports team;
  - Illicit Drug use can impact on the community who support you; and
  - Participating in sport supports a healthy lifestyle.
- iii. The AUSTRALIAN CURLING FEDERATION will incorporate relevant additional information relating to this Policy into the education programs.
- iv. The AUSTRALIAN CURLING FEDERATION will provide information about, and referrals to, counselling and support programs in relation to *Illicit Drugs* in the

education programs. These programs may be face to face, an on-line service, or a telephone service through ASADA's Athlete counselling initiative.

b) Referral to Support Program

- i. The AUSTRALIAN CURLING FEDERATION must provide access to support in the form of education, medical or counselling services (whether provided directly by the AUSTRALIAN CURLING FEDERATION or by a referral), for *Athletes or Athlete Support Personnel*, or any other *Person* bound by this Policy who either breach this Policy, or request assistance.
- ii. The AUSTRALIAN CURLING FEDERATION may refer a *Person* for *Testing*, education, counselling or treatment, or may target test a *Person* where there are reasonable grounds for doing so.
- iii. A *Person* may refer themselves or another *Person* bound by this Policy to the AUSTRALIAN CURLING FEDERATION for *Testing*, education, counselling or treatment at any time. The AUSTRALIAN CURLING FEDERATION has the discretion to refrain from recording a breach of this Policy against a *Person* who self refers.

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#### ILLICIT DRUGS POLICY OFFICER

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a) AUSTRALIAN CURLING FEDERATION shall nominate a suitable person to administer this Policy, and they shall be referred to as the Illicit Drugs Policy Officer (**IDPO**).

b) The IDPO shall:

- i. be responsible for the supervision and administration of this Policy and the associated education programs;
- ii. be responsible for making this Policy (and any updates from time to time) available to all of those *Persons* who are bound by this Policy;
- iii. be responsible for collecting, recording, and maintaining any results or information regarding *Testing* or analysis of *Samples* in relation to this Policy;
- iv. determine or approve an appropriate management plan, which may include education, counselling, medical or other treatment, and anything else considered reasonably necessary for a *Person* bound by this policy;
- v. monitor, supervise, or vary a management plan at any time as they deem reasonably appropriate;
- vi. determine the financial support, if any, that a *Person* will be granted in relation to their undertaking a management plan;
- vii. act in a professional, discreet and confidential manner in undertaking the obligations of their role under this Policy;
- viii. have responsibility for decisions made on behalf of the AUSTRALIAN CURLING FEDERATION in relation to this Policy, unless another person or body (such as the AUSTRALIAN CURLING FEDERATION Executive Committee) is explicitly specified within this Policy as having that responsibility; and
- ix. ensure they fully understand their role and obligations under this Policy, and have a current and accurate understanding of matters relevant to this Policy.

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#### BREACHES

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a) A *Person* commits a breach of this Policy when any of the following occurs:

- i. an *Illicit Drug* or its metabolites or markers is detected in a *Sample* taken from the *Person*;
  - ii. they refuse or unreasonably fail to comply with a reasonable direction of the AUSTRALIAN CURLING FEDERATION made under this Policy (including a request to provide a *Sample* for the purposes of *Testing*);
  - iii. they are in *Possession* of an *Illicit Drug*;
  - iv. they use an *Illicit Drug*;
  - v. They are *Trafficking* an *Illicit Drug*;
  - vi. where any *Person* has engaged in conduct and/or demonstrated an attitude contrary to the objectives, spirit and implementation of this Policy; or
  - vii. when any *Person* does or fails to do anything that is reasonably deemed by the IDPO to be a breach of this Policy.
- b) Breaches determined to fall under the AUSTRALIAN CURLING FEDERATION Anti-Doping Policy, AUSTRALIAN CURLING FEDERATION Member Protection Policy, or the AUSTRALIAN CURLING FEDERATION Code of Conduct will be dealt with in accordance with those Policies respectively.
- c) Notification of alleged Breach by IDPO
- i. A *Person* who allegedly commits a breach of this Policy will be advised of the alleged Breach in writing as soon as reasonably practicable by the IDPO. The notice of the alleged breach will contain details of the alleged breach such that the *Person* may consider whether to dispute or accept the breach.
  - ii. A dispute must be provided to the IDPO within 48 hours of receiving the notice of alleged breach. If no dispute is lodged within this timeframe, the *Person* will be assumed to have accepted the Breach. If the *Person* disputes the alleged breach the matter will be heard by the *Hearing Panel*.
- d) A *Person* is entitled to dispute the breach in accordance with this Policy.
- e) Notification of alleged Breach Committed by a Minor
- i. A *Person* who commits an alleged breach of this Policy who is a minor (under the age of 18 years) will be notified via their nominated representative, as identified to the AUSTRALIAN CURLING FEDERATION on the most recent membership and/or team nomination or competition entry form.
  - ii. The minor *Person* may include their nominated representative in subsequent interviews and communications with the AUSTRALIAN CURLING FEDERATION relating to that particular alleged breach.
- f) Failure to Comply with IDPO Instruction a Further Breach
- i. A *Person* who unreasonably fails to attend the *Hearing Panel*, or meet with the IDPO or any other person specified by the IDPO (such as an AUSTRALIAN CURLING FEDERATION Executive Committee delegate), education, or treatment, on any occasion when required to do so in accordance with a reasonable direction by the IDPO or as contained in a management plan, shall be deemed to have committed a further breach.



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## DISPUTING A BREACH

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- a) Any *Person* who lodges a dispute bears the onus of proving, on the balance of probabilities, that the alleged breach finding should be disregarded. For the avoidance of doubt, any *Person* who disputes a breach finding in accordance with this Policy acknowledges that the details relating to the alleged breach will not be subject to the confidentiality requirements of this Policy.
- b) *Hearing Panel*
- i. If a *Person* disputes the alleged breach as notified by the IDPO and elects to have their matter heard by the *Hearing Panel*, then the *Hearing Panel* shall hear and determine the matter in accordance with the *Hearing Panel* Procedure contained in Appendix A provided that:
- the *Person* should be entitled to have their own legal representation for any hearing of the *Hearing Panel*;
  - the *Person* may be referred to the *Hearing Panel* for a hearing in respect of either one or both of the finding of guilt of a breach, and the matter of sanction;
  - where the *Person* is found by the *Hearing Panel* to have committed a breach, the *Hearing Panel* shall impose a sanction in accordance with Section 12; and
  - the *Hearing Panel* may take into consideration exceptional and compelling circumstances which would make it harsh and unreasonable to apply a usual sanction in all the circumstances of the case.
- c) The AUSTRALIAN CURLING FEDERATION may make a public announcement regarding any *Hearing Panel* hearing to be conducted under this Policy, or the sanction imposed by the *Hearing Panel*, unless there are extenuating circumstances which would make it unreasonable to do so, having regard to the objectives of this Policy, and the circumstances of the case.
- d) *Appealing a Hearing Panel Finding*
- i. A *Person* or the AUSTRALIAN CURLING FEDERATION (Appellant) may lodge an appeal with the *Hearing Panel* in respect of a determination under this Policy by the *Hearing Panel* from an initial hearing, by no later than close of business on the seventh day following notification of the decision of the *Hearing Panel* on one or more of the following grounds only;
- an error in the application of this Policy;
  - the decision was so unreasonable that no *Hearing Panel* acting reasonably could have come to that decision having regard to the evidence before it; or
  - the sanction imposed was manifestly excessive in all of the circumstances of the case.
- e) The procedural matters set out in Appendix A shall apply to any appeal to the *Hearing Panel*.
- f) The Appellant shall have no further right of appeal other than as expressly provided in this Policy.

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## SANCTIONS

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- a) Any *Person* (including any members, volunteers or contractors) who is found to have breached this Policy may face disciplinary action by AUSTRALIAN CURLING FEDERATION.
- b) The AUSTRALIAN CURLING FEDERATION *Hearing Panel* may recommend sanctions including the following:
  - i. a warning (generally accompanied by the completion of education);
  - ii. suspension from competition for a specified period;
  - iii. suspension from access to *Athletes* for a specified period;
  - iv. banning from participation in AUSTRALIAN CURLING FEDERATION-related competition, training or events;
  - v. suspension from AUSTRALIAN CURLING FEDERATION-organised training; and/or
  - vi. suspension or termination of Contract or financial support.

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## REPORTING AND PROVISION OF INFORMATION

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- a) The IDPO shall provide the AUSTRALIAN CURLING FEDERATION President (if IDPO is different to the President) and Executive Committee regular reports of breaches of this Policy. Information regarding breaches will also be provided to the relevant State Associations.
- b) Australian Curling Federation Executive Committee members shall be obliged to treat the information received as confidential and shall not disclose the information without the approval of the IDPO, or the consent of the relevant *Person* to whom the confidential information relates.
- c) For clarity, if the *Person* is a member of another sport/s, then the IDPO, with approval of the AUSTRALIAN CURLING FEDERATION President or Executive Committee, may notify the IDPO and/or National Sporting Organisation (NSO) CEO of that other sport/s if considered appropriate and reasonable by the AUSTRALIAN CURLING FEDERATION President.
- d) Where there is a potential connection to a possible anti-doping rule violation (or other breach of the AUSTRALIAN CURLING FEDERATION Anti-Doping Policy), the IDPO may be obliged to notify other parties including the Australian Sports Anti-Doping Authority (ASADA), in accordance with the AUSTRALIAN CURLING FEDERATION Anti-Doping Policy.
- e) This Policy imposes obligations on the IDPO to disclose personal and confidential information to third parties in relation to Persons subject to this Policy, as well as others including without limitation those involved in education, counselling and treatment of persons subject to this Policy. Each *Person* subject to this Policy consents to the provision of such information in accordance with, and as anticipated by this Policy as a condition of their membership within the AUSTRALIAN CURLING FEDERATION.
- f) The AUSTRALIAN CURLING FEDERATION may make a public announcement regarding any sanction imposed by the IDPO or AUSTRALIAN CURLING FEDERATION President regarding a breach of this Policy, unless there are extenuating circumstances which would make it unreasonable to do so, having regard to the objectives of this Policy, and the circumstances of the case.

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## INVESTIGATIONS

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- a) As per Article 6A of the AUSTRALIAN CURLING FEDERATION Anti-Doping Policy, where information relevant to a possible anti-doping rule violation is known, the information must be passed on to the Australian Sports Anti-Doping Authority (ASADA). Deliberate failure to do so may in itself constitute a breach of the AUSTRALIAN CURLING FEDERATION Anti-Doping Policy.
- b) ASADA and/or the AUSTRALIAN CURLING FEDERATION may decide to investigate a possible or suspected anti-doping rule violation. If ASADA or the AUSTRALIAN CURLING FEDERATION has reason to believe a *Person* may have relevant information, then an interview or information may be requested with that *Person*. In accordance with Article 6A of the Anti-Doping Policy, the *Person* agrees to co-operate with any such request.
- c) Breaches of this Policy relating to illegal substances or activity should be reported to the police, which can be done anonymously via Crime Stoppers at <https://www.crimestoppers.com.au/> or by telephone on 1800 333 000

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## CONFIDENTIALITY AND PRIVACY

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- a) Anyone who acquires information under this Policy must not disclose this information to any person unless this Policy expressly authorises the disclosure.
- b) There is no entitlement that an *Athlete* or *Athlete Support Personnel's* information and details breach will be kept confidential (once a final decision has been made with appeal rights waived or exhausted).
- c) This Policy imposes obligations on various authorised groups and bodies to disclose information in relation to an *Athlete* or *Athlete Support Personnel* subject to this policy to third parties involved in the administration of this Policy. Each *Athlete* or *Athlete Support Personnel* consents to the disclosure of information by these parties in accordance with this Policy.
- d) If an *Athlete* or *Athlete Support Personnel* publicly discloses to the public any circumstances relating to a breach of this Policy, the AUSTRALIAN CURLING FEDERATION and any relevant state association will be entitled to receive information regarding that breach. In the case of such disclosure by an *Athlete* or *Athlete Support Personnel*, the obligations of confidentiality imposed pursuant to this section 14 shall no longer apply.
- e) If you wish to access your personal information held by AUSTRALIAN CURLING FEDERATION, or if you have any queries or complaints regarding your personal information, please contact the Australian Curling Federation President.

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## LINKS

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- *Criminal Code Regulations 2002 (Cth)*  
<https://www.legislation.gov.au/Details/F2016C00109>

- Australian Government's Illicit Drugs in Sport Program: <http://www.idis.gov.au>
  - National Integrity of Sport Unit - Contact: [nisu@health.gov.au](mailto:nisu@health.gov.au)
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#### CHANGES TO THIS POLICY

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- a) The AUSTRALIAN CURLING FEDERATION reserves the right to vary or replace this Policy at any time. Changes are effective upon posting the amended Policy on the AUSTRALIAN CURLING FEDERATION's website. It is the responsibility of all Persons to remain informed of any amendments or updates to this Policy. Printed copies of this Policy may not be up to date, and so it is recommended that the current version of the Policy be accessed via the AUSTRALIAN CURLING FEDERATION's website or contact a member of your state member association to obtain the most recent copy.

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## APPENDIX A – HEARING PANEL PROCEDURE

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### Commencement of Proceedings

- a) The *Hearing Panel* must comprise three persons independent of the Sport and with appropriate skills and experience appointed by the Australian Curling Federation Executive Committee for such time and for such purposes as the Board thinks fit. The ACF Executive Committee will appoint one of the members of the *Hearing Panel* to act as its Secretary.

### Procedure of the Hearing Panel

- a) This section applies if the *Person* contests the allegation(s) that he or she has is in Breach of the Policy as specified in the Notice, and there is a hearing of the allegations by the *Hearing Panel*.
- b) The purpose of the hearing shall be to determine whether the *Person* is in Breach of the Policy as specified in the Notice and, if the *Hearing Panel* considers that the *Person* is in Breach of this Policy, for the imposition any Sanction in the *Hearing Panel's* discretion.
- c) The *Hearing Panel* may conduct the hearing as it sees fit and, in particular, shall not be bound by the rules of evidence or unnecessary formality. The *Hearing Panel* must determine matters in accordance with the principles of procedural fairness, such as a hearing appropriate to the circumstances; lack of bias; inquiry into matters in dispute; and evidence to support a decision.
- d) The hearing shall be inquisitorial in nature and the *Hearing Panel* may call such evidence as it thinks fit in its discretion and all Relevant Persons subject to this Policy must, if requested to do so by the *Hearing Panel*, provide such evidence as they are able.
- e) Notwithstanding the above, the *Person* disputing the alleged Breach:
  - i. is permitted to be represented at the hearing (at their own expense);
  - ii. may call and question witnesses;
  - iii. has the right to address the *Hearing Panel* to make their case; and
  - iv. is permitted to provide written submissions for consideration by the *Hearing Panel* (instead of or as well as appearing in person). If the *Person* provides any written submissions, the *Hearing Panel* must consider those submissions in its deliberations.
- f) The hearing shall be closed to the public. Only persons with a legitimate interest in the hearing will be permitted to attend. This will be at the sole discretion of the *Hearing Panel*.
- g) The *Hearing Panel* must determine whether the *Person* is in Breach of this Policy on the balance of probabilities.
- h) The decision of the *Hearing Panel* shall be a majority decision and must be recorded in writing. The decision must, at a minimum, set out and explain:
  - i. the *Hearing Panel's* findings, on the balance of probabilities and by reference to the evidence presented or submissions made, as to whether the *Person* is in Breach of this Policy; and
  - ii. if the *Hearing Panel* makes a finding that the *Person* is in Breach of this Policy, what, if any, Sanctions it considers appropriate.
- i) Subject only to the rights of appeal, the *Hearing Panel's* decision shall be the full, final and complete disposition of the allegations of Breach by the *Person* and will be binding on all parties.

- j) If the *Person* or their representative does not appear at the hearing, after proper notice of the hearing has been provided, the *Hearing Panel* may proceed with the hearing in their absence.

## Appeals

- a) The *Person*, the AUSTRALIAN CURLING FEDERATION and/or the Member Organisations have a right to appeal the decision of the *Hearing Panel*.
- b) The available grounds of appeal are:
  - i. where the decision of the *Hearing Panel* is wrong having regard to the application of this Policy or the Code of Conduct;
  - ii. where new evidence has become available;
  - iii. where natural justice has been denied; or
  - iv. in respect of the Sanction imposed.
- c) A notice of appeal must be made in writing, lodged with the ACF Executive Committee, through the AUSTRALIAN CURLING FEDERATION's President, within fourteen business days of the *Hearing Panel's* decision. The notice of appeal must specify the grounds for the appeal.
- d) Where the Board receives a notice of appeal, the Board must convene an appeal tribunal for the purposes of hearing the appeal ("the Appeal Tribunal"). Any hearing of the appeal must be held within thirty days of the notice of appeal being received by the Board.
- e) Any decision of the *Hearing Panel* that is appealed to the Appeal Tribunal will remain in effect while under appeal unless the Board orders otherwise.
- f) The Appeal Tribunal must be appointed by the Board for such time and for such purposes as the Board thinks fit and must:
  - i. be comprised of three Persons independent of the Sport with appropriate skills and experience to hear the matter;
  - ii. include at least one person who has considerable previous experience in the legal aspects of a disciplinary/hearings tribunal and dispute resolution; and
  - iii. not include any members from the initial *Hearing Panel*.
- g) The hearing before the Appeal Tribunal is not a rehearing of the matter, but a hearing of the issue under appeal only.
- h) The Appeal Tribunal may conduct the appeal as it sees fit. However, any party to the appeal can be represented at and make written and oral submissions to the Appeal Tribunal subject to the discretion of the Appeal Tribunal.
- i) The Appeal Tribunal may, in its discretion:
  - i. affirm the decision of the *Hearing Panel* and the Sanction imposed;
  - ii. affirm the decision of the *Hearing Panel* but decide to impose an alternative Sanction; or
  - iii. revoke the decision of the *Hearing Panel* and the Sanction imposed.
- j) The decision of the Appeal Tribunal shall be a majority decision and must be recorded in writing. The Appeal Tribunal and be communicated to the Sport's Chief Executive Officer and appellant as soon as practicable.
- k) The decision of Appeal Tribunal shall be final, non-reviewable, non-appealable and enforceable. No claim, arbitration, lawsuit or litigation concerning the dispute shall be brought in any other court or tribunal. Note: This provision does not prevent any law enforcement agency taking action.

## Factors Relevant for Sanction

In determining the appropriate sanction, the AUSTRALIAN CURLING FEDERATION *Hearing Panel* shall identify all relevant aggravating and mitigating factors and determine the appropriate period of Ineligibility or if the *Person's* Contract or membership shall be terminated. Aggravating and mitigating factors include consideration of the following, but is not limited to:

- the presence and time of any acknowledgement of culpability by the *Person*;
- the behaviour record and/or character of the *Person*;
- the age and experience of the *Person*;
- the period of time remaining on the *Person's* Contract or membership;
- the *Person's* public profile and potential or actual damage his or her breaches have or may have had on their own reputation, the game or stakeholders in the sport;
- the possible welfare implications of the sanction if imposed on the *Person*;
- The importance of scheduled competitions or training potentially missed by the *Person* due to the imposed period of the sanction; and

Any other aggravating and/or mitigating factors put forward by the *Person*, the AUSTRALIAN CURLING FEDERATION or another person.