



## **AUSCYCLING NO DOPING DECLARATION POLICY**

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## 1 DEFINITIONS

*ADP* means the AC Anti-Doping Policy as amended from time to time.

*Anti-doping Agency* includes Sport Integrity Australia (SIA), the World Anti-doping Agency (WADA) and any anti-doping agency operating in any country that is involved in identifying persons who have breached the World Anti-Doping Code or any country's anti-doping policies.

*Anti-doping rule violation* has the same meaning as it has in Article 2 of the World Anti-Doping Code.

*Athlete* has the same meaning as in the ADP.

*Athlete Support Personnel* has the same meaning as in the ADP.

*Board* means the Board of AC.

*AC* means AusCycling

*CEO* means the Chief Executive Officer of AC.

*Committee* means the Ethics and Integrity Committee constituted and appointed by the Board

*Integrity Tribunal* means an Integrity Tribunal appointed by the Ethics and Integrity Committee under Article 6.2,

*Limitation Period* means the period prescribed under the Statute of Limitations in Article 17 of the World Anti-Doping Code.

*Member* has the same meaning as in the ADP.

*Offence* means a conviction for or an admission of an anti-doping rule violation.

*Prescribed Role* means one of the following roles:

- (a) CEO,
- (b) management and coaches in the AC high performance or national teams, the Australian Institute of Sport cycling programs, any State Institute of Sport cycling programs and any other elite development cycling programs overseen by AC,
- (c) membership of the Board of AC,
- (d) membership of the Ethics and Integrity Committee and any Integrity Tribunal of that Committee,

- (e) any other role declared by the Board from time to time to be a Prescribed Role.

*Statutory Declaration* means a Statutory Declaration in the form set out in Appendix A to this Policy that complies with the legal requirements of the State or Territory where the declaration is made and which includes the applicable statement that the person understands that making a false statement is a criminal offence.

*(NOTE. A copy of the form appropriate for each State or Territory can be downloaded from the AC website or obtained from an AC office)*

*The Person* means a person required to execute a Statutory Declaration or who has been referred to the Panel.

## **2 WHO DOES THIS POLICY APPLY TO?**

### 2.1 This Policy applies to:

- (a) members of the Board of AC,
- (b) employees of AC,
- (c) athletes and athlete support personnel in AC high performance or national teams, Australian Institute of Sport cycling programs, any State Institute of Sport cycling programs and any other elite development cycling programs overseen by AC,
- (d) members of the Ethics and Integrity Committee and any Integrity Tribunal,
- (e) members of Board sub-committees and State Advisory Committees
- (f) contractors and consultants to AC who are engaged to work directly with athletes designated by Article 2.1(c) and such of their existing employees as are designated in writing by AC from time to time,
- (g) any other person specified by the Board or who has agreed to be bound by it,
- (h) any person who is entering a new relationship with AC coming within any of the above Categories, including persons previously elected, appointed, employed or engaged by or with AC whether they are returning to take up or renew their previous role or a different role.

### 2.2 This Policy does not apply to:

- (a) members and athletes of AC who do not otherwise come within Article 2.1,
- (b) employees or contractors of any organisation that has a sponsorship arrangement with AC other than employees designated under Article 2.1(f).

### **3 OBLIGATIONS**

- 3.1 Each person covered by Article 2.1 is bound by this Policy as a condition of his or her initial and continuing employment, engagement, membership, participation or involvement by or in AC.
- 3.2 Each Statutory Declaration must have the formal parts required by the law of the State or Territory where the Statutory Declaration is being executed and this must include the applicable statement that the person understands that making a false statement is a criminal offence.
- 3.3 The Statutory Declaration must be executed by each person in the presence of a duly authorised witness, who may include but is not limited to, a justice of the peace or a legal practitioner.
- 3.4 Where a person making a Statutory Declaration attaches documents and/or a statement, each page attached must be numbered sequentially and signed by the person and the authorised witness.

### **4 WHEN STATUTORY DECLARATIONS ARE REQUIRED**

- 4.1 The CEO may at any time, and when so directed by the Board or the Panel shall, write a letter to a person covered by Article 2.1(a) to (h).
- 4.2 A person who comes within Article 2.1 will not be eligible to be elected, appointed, employed or engaged by or with AC until he or she provides an executed copy of the Statutory Declaration to the CEO.
- 4.3 Where the CEO is notified or advised by an Anti-doping Agency that a person covered by Article 2.1 has committed an Offence, the CEO must, by letter, require that person to make a new Statutory Declaration within 21 days.
- 4.4 Each person must fully complete, execute and return the Statutory Declaration to the CEO (or other person nominated in the letter) within 21 days of the date of the letter.

### **5 FAILURE TO DISCHARGE OBLIGATIONS**

- 5.1 Where a person fails or refuses to provide an executed copy of the Statutory Declaration within the 21 days of receipt of a letter under Article 4, without reasonable Cause (the onus of proving which to the reasonable satisfaction of the Panel shall be upon the person concerned), then that person's relationship with AC will terminate immediately.

- 5.2 Subject to Article 5.3, if a person covered by Article 2.1 (other than a person in a Prescribed Role) ticks paragraph 2.2, or 2.3 of the Statutory Declaration, that person will be referred by the CEO to the Committee .
- 5.3 If a person in a Prescribed Role ticks paragraph 2.3 of the Statutory Declaration, the person's relationship with AC will terminate immediately and the CEO shall forthwith refer the person to the Committee to determine the period for which the person will be disqualified from holding a role or discharging a function covered by Article 2.1
- 5.4 For abundant caution, if a person whose relationship is immediately terminated under this Article or Article 6.5(a) is an employee or a contractor of AC, then the employment or engagement of that person may, and in the case of a person in a Prescribed Office (other than an employee), must be terminated without notice on the grounds of serious misconduct.
- 5.5 Where a person alleges a reasonable cause for a failure to comply with Article 5.1, the CEO shall refer that issue to the Panel whose determination of the issue shall be final with no further appeal or review under this Policy.

## **6 ROLE OF COMMITTEE**

- 6.1 The Committee will refer a person referred to it under Article 5 to an Integrity Tribunal constituted under Article 6.2.
- 6.2 The Integrity Tribunal will be appointed by the Committee and consist of no more than three persons (one of whom may be a Board Member) having relevant skills, experience and qualifications including in the operation of anti-doping rules in sport.
- 6.3 Subject to the AC Constitution and the By-Laws, the Committee and an Integrity Tribunal will determine its own procedure in accordance with the circumstances to be considered and having regard to the rules of procedural fairness.
- 6.4 The Integrity Tribunal shall consider all relevant matters and may invite the person to attend a meeting with the Integrity Tribunal and to call witnesses relevant to the issues to be considered by the Integrity Tribunal.
- 6.5 The Integrity Tribunal will make a recommendation to the Committee of the outcome and this outcome may include:
- (a) immediate termination of the relationship,
  - (b) Cancellation of AC membership,
  - (c) suspension of AC membership for a specified period or until a specified event has occurred,
  - (d) imposition of conditions on AC membership and subject to a review or for a specified period,

- (e) a warning,
  - (f) counselling,
  - (g) disqualification from a specific role referred to in Article 2.1 for a period or indefinitely,
  - (h) any other sanction that the Tribunal considers appropriate,
  - (i) taking no further action.
- 6.6 The Committee will make a final determination of the outcome and the CEO shall advise the person in writing as soon as practicable of that determination.
- 6.7 The person may, in writing, appeal to the Board against the determination within 28 days of being notified of the determination.
- 6.8 The Board shall consider the person's written appeal and any other material the Board thinks relevant and as soon as practicable make a decision.
- 6.9 A decision of the Board under Article 6.8 shall be final with no further appeal or review under this Policy.
- 6.10 The factors that will be taken into account by an Integrity Tribunal, the Committee and the Board when determining an outcome within Article 6.5 include:
- (a) the nature and gravity of the Offence,
  - (b) the person's culpability and degree of responsibility for the Offence,
  - (c) the extent to which the person profited or was advantaged by the offence,
  - (d) whether the person pressured or encouraged other persons over whom he or she had any influence or control to commit an Offence,
  - (e) the extent of the damage, including to reputation, caused to AC and to cycling in Australia by the Offence and from any publication of the circumstances and particulars of the Offence,
  - (f) the person's previous character,
  - (g) whether the person has shown any contrition,
  - (h) any aggravating or mitigating factors or other relevant circumstances including rehabilitation or contribution to the promotion of an anti-doping culture in cycling,
  - (i) the extent to which the person has co-operated with the authorities including the provision of information about persons trafficking in Prohibited Substances or Prohibited Methods or other persons engaged in anti-doping rule violations, ,

- (j) the nature of the position to be performed,
  - (k) the period of violation/s,
  - (l) the period of time since the last violation.
- 6.11 Where the Committee forms the view that there needs to be an independent investigation of any matter raised in a document or a report provided to it under this policy which, if proven, would constitute a breach of this policy or of the ADP outside the Limitation Period, the Committee must take all necessary steps to initiate such an investigation, including drafting appropriate terms of reference, appointing an investigator and receiving the investigation report.
- 6.12 An investigator appointed under Article 6.11 will act in accordance with the rules of procedural fairness.
- 6.13 If an investigator's report to the Committee includes a finding that a person covered by Article 2.1 has, on the balance of probabilities, breached this Policy or the ADP outside the Limitation Period, the Committee shall deal with the person under this Article as if they had been referred under Article 5.2 and as if the finding constituted an Offence.

## **7 CONFIDENTIALITY**

- 7.1 All information disclosed to AC under this Policy which might reasonably be regarded as adverse to the interests of any person shall, subject to this Article, be held by AC as confidential information until any investigation or proceeding under this Policy or by SIA has been finalised.
- 7.2 Notwithstanding Article 7.1, the Board may, either generally in relation to a class of information or persons or, in a particular case or circumstance, release such information disclosed to AC under this Policy as it considers reasonably necessary to be disclosed to maintain public confidence in the integrity of cycling in Australia.

## **8 REPORTING OBLIGATIONS**

- 8.1 Where a person covered by Article 2.1 receives or obtains credible information or has a belief based on reasonable grounds that a person has made a Statutory Declaration which is false or incomplete or does not otherwise comply with the requirements of this Policy, that person is obliged to report all relevant information to the CEO who shall refer the information to the police service of the State or Territory where the Statutory Declaration was made.

- 8.2 Where any person covered by Article 2.1 receives or obtains credible information or has a belief based on reasonable grounds that another person covered by Article 2.1 is committing or has committed an anti-doping rule violation, the first mentioned person must report that information or belief to the CEO.
- 8.3 Where a person in a Prescribed Role receives or obtains credible information or has a belief based on reasonable grounds that a person has failed to report information as required by this Article, that failure must be reported to the CEO.
- 8.4 The CEO shall refer a report made under this Article to the Committee.
- 8.5 Where a Statutory Declaration or an investigation report discloses a possible Offence within the Limitation Period the CEO must refer all relevant information to SIA.



## APPENDIX A

### STATUTORY DECLARATION

[Form Of Declaration under The Statutory Declarations Act 1959 (Cth)]

I, *(Full Name)* .....

*(Address)* .....

.....

*(Occupation)* .....

make the following declaration under the Statutory Declarations Act 1959:

1. I am aware of and understand:
  - (a) what constitutes an anti-doping rule violation as defined in Article 2 of the World Anti-Doping Code,
  - (b) that an anti-doping rule violation includes but is not limited to:
    - (i) using, attempting to use or possessing a Prohibited Substance,
    - (ii) using or attempting to use a Prohibited Method,
    - (iii) trafficking or attempted trafficking in any Prohibited Substance or Prohibited Method, and
    - (iv) assisting, encouraging, aiding, abetting, covering up or any type of complicity involving an anti-doping rule violation or an attempted anti-doping rule violation,
  - (c) AusCycling's Anti-Doping Policy.
2. I have correctly and honestly ticked the box or boxes below that apply to me.
  - 2.1  I am not now committing and never have committed an anti-doping rule violation when participating in or involved with cycling, or any other sport compliant with the World Anti-Doping Code, in Australia or elsewhere in the world.
  - 2.2  I have one or more prior convictions from an Anti-doping Agency for an anti-doping rule violation and attached to this declaration are the relevant documents including the notification of any and all sanctions that were imposed on me.

2.3 [ ] In addition to the anti-doping rule violation/s disclosed under paragraph 2.2, I have committed one or more additional rule violation/s when participating in or involved with cycling, or another sport compliant with the World Anti-Doping Code, in Australia or anywhere in the world and attached to this declaration is a statement by me setting out all the relevant circumstances of each and every such activity including the dates, team membership and the substance/s or method/s I used. I have not been convicted by any Anti-doping Agency for any of those activities.

3. I have not committed any anti-doping rule violations other than those revealed in any documents or statement attached to this declaration.

I understand that a person who intentionally makes a false statement in a statutory declaration is guilty of an offence under section 11 of the Statutory Declarations Act 1959, and I believe that the statements in this declaration are true in every particular.

**Declared at** .....

this..... day of.....20.....

.....  
(Signature of Declarant)

**Before me:**

.....  
[Signature of person before whom the declaration is made]

[Insert in legible writing or type or stamp the name of the person witnessing the signing of the declaration and their address]

Name:.....

Title:.....

Address:.....