

**CONFIDENTIAL**

**Independent Audit of  
Systems and Processes  
for addressing  
Athlete Wellbeing Issues at  
High Performance Sport  
New Zealand**

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## 1. INTRODUCTION

- 1.1 On 15 September 2020, I was appointed by High Performance Sport New Zealand (HPSNZ) to conduct an independent audit of the systems and processes HPSNZ has in place for dealing with issues relating to athlete wellbeing.
- 1.2 The decision to conduct an audit followed a series of media articles (published primarily in Stuff) which claimed, amongst other things, that there was a disconnect between the senior leadership of HPSNZ and HPSNZ service providers working with athletes in their training environments, and that at least four people within HPSNZ had escalated athlete wellbeing issues in relation to one particular sport, Canoe Racing, which had been dismissed and/or ignored.
- 1.3 While HPSNZ publicly disputed those assertions, it elected to carry out an independent audit of its practices and processes in dealing with these types of issues, and to seek recommendations as to how those practices and processes may be improved.
- 1.4 The terms of reference for this audit are attached at **Appendix 1**. Although the terms of reference could be read as indicating this was to be an audit of the systems and processes HPSNZ has in place for dealing with any issue in need of escalation, I was asked to ensure my focus was on the escalation of athlete wellbeing issues<sup>1</sup>. Nevertheless, I believe some of the comments in this audit report may well be of value in a broader context.
- 1.5 It is also important to emphasise at the outset that I was not appointed to investigate the allegations which publicly surfaced in relation to Canoe Racing, and this report contains no findings in relation to those matters. Those issues are for Canoe Racing to review and address. Instead, my role has been to examine the internal systems HPSNZ has in place when it becomes aware of athlete wellbeing issues and to identify areas for improvement, if any.
- 1.6 In preparing this report, it became apparent that, while this is an audit of existing practices and processes, it would not be possible to provide coherent answers without making at least some comments on broader issues relating to the roles and responsibilities for athlete wellbeing within our existing sports system. As will be explained in more detail, in my view, there is some confusion in the current system about what exactly HPSNZ's role is (and what its role should be) in ensuring athletes are operating in a safe and healthy environment.
- 1.7 Most of my comments on this issue are contained in the section of the report entitled "Issue Three" and also in the final section under the heading "Broader Observations."

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<sup>1</sup> I note that HPSNZ's wellbeing focus is broader than just on athletes and also encompasses coaches, providers and leaders within the high-performance environment. For the purpose of this report, when I refer to athlete wellbeing, I am referring to this broader group.

## **2. METHODOLOGY**

- 2.1 The list of people I interviewed is set out in **Appendix 2**. Most interviews were conducted in person, although a small number were completed by Zoom.
- 2.2 The interviews largely followed a similar format. I summarised the terms of reference (for those not familiar with its contents), explained that I would take handwritten notes of our discussion and I then worked through a series of questions which were substantially similar for all those interviewed.
- 2.3 I subsequently forwarded the interviewee a typed summary of the key issues raised in our discussion in draft form, the interviewee was invited to correct any errors or add any additional comment before the notes were finalised and signed/verified.<sup>2</sup>
- 2.4 I was also provided with a large number of documents, many from HPSNZ directly but some also from the interviewees.
- 2.5 I provided a first draft of my report to HPSNZ on 12 November 2020 and receive some helpful feedback/requests for clarification on 15 December 2020.
- 2.6 I would like to express my thanks to everyone involved in this process. Everyone was extremely cooperative and constructive in their comments.

## **3. EXECUTIVE SUMMARY**

- 3.1 Based on the information I have gathered, I am confident HPSNZ's board and senior management team have a strong and clear commitment to, and focus on, the importance of athlete wellbeing.
- 3.2 There are also a number of systems and processes in place within HPSNZ to deal with issues relating to athlete wellbeing and a high level of awareness within HPSNZ about the existence of most of these systems and processes.
- 3.3 However, there are several areas where I believe the systems and processes can be improved and refined, and I have endeavoured to identify these in this report and to suggest changes and/or different approaches.
- 3.4 In particular, I believe the escalation system needs to be fully documented; the board's oversight would be enhanced through the introduction of an athlete wellbeing report from management (perhaps twice a year) with scope for direct input from the heads of discipline; I encourage refinements to the wording of the risk register to more expressly deal with matters relating to athlete wellbeing and potential damage to HPSNZ's reputation; and I have suggested changes to the Risk Response Team (including its composition) and to the wording of the Health Checks.

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<sup>2</sup> The two exceptions to this were my interviews with Josh Blackie and Wayne Maher, both of HPSNZ, which were conducted after the draft report has been provided to HPSNZ. As these discussions were on quite narrow and specific points, formal interview notes were not compiled.

- 3.5 At a broader level, I believe HPSNZ needs to continue to advocate for a stronger voice for athletes; I have suggested core Human Resource initiatives should play a fundamental role in monitoring and improving the training and competition environments for our athletes and coaches; and HPSNZ should consider adopting an approach based on the independent Culture Survey used by UK Sport (albeit adapted to New Zealand's sport sector) so that it can genuinely monitor whether the sports it is investing in, are living a commitment to athlete wellbeing.
- 3.6 While this is not a report into events at Canoe Racing, in my view the opinions expressed to me by some HPSNZ board members and by a small (but important) group of service providers within HPSNZ about HPSNZ's response to events within that sport, may well have been different if some of the changes noted above had been in place.
- 3.7 Finally, I have tried to emphasise throughout this report that while it is entirely appropriate for HPSNZ to always be looking at ways to improve its systems and processes for dealing with athlete wellbeing, every system and process should be aligned with strategy. In that regard, a number of people I interviewed seemed to place a great deal of responsibility on HPSNZ to provide athletes with a safe and healthy training and event environment. I believe that view is fundamentally flawed.
- 3.8 In this report, I have encouraged HPSNZ to look at ways in which it can help all NSOs understand that the responsibility for providing safe and healthy environments rests with each NSO – and that HPSNZ's role must be to help the NSO to ensure it is meeting this obligation, potentially to make its funding conditional on this obligation, and to monitor compliance. Pleasingly, HPSNZ's draft future strategy seems entirely aligned with this.

#### **4. FACTUAL CONTEXT**

- 4.1 Sport New Zealand (Sport NZ) is the Crown entity responsible for governing sport and recreation in New Zealand. HPSNZ is a subsidiary of Sport NZ and is charged with leading the high-performance sport system in New Zealand. It works in partnership with national sports organisations (NSOs).
- 4.2 NSOs are the entities responsible for governing their sports at a national level. The vast majority are incorporated societies, typically with member bodies constituted in regions, provinces or clubs.
- 4.3 The high-performance programmes of many of our NSOs rely heavily on HPSNZ funding. HPSNZ currently determines the level of its investment in NSOs based on four criteria:
- past performance
  - future potential
  - the quality of the high-performance programme and
  - campaigns and individual sport context.

HPSNZ uses these criteria to target its funding into high performance programmes and/or particular campaigns. HPSNZ designates some NSOs as "Tier 1" or "Tier 2" sports (e.g. Rowing, Cycling, Yachting, Athletics) and provides funding to support the high-performance programme. For other

teams/individuals, funding is provided to support a particular campaign (e.g. Men's Softball World Cup campaign).

- 4.4 Additional funding is also available for athletes through Performance Enhancement Grants (PEGs) and Prime Minister's Scholarships.
- 4.5 However, HPSNZ's role is far wider than simply as a funder of sport. It also provides high performance expertise to targeted and campaign sports in areas such as strength and conditioning, innovation, nutrition, performance psychology, high performance coaching and performance health.
- 4.6 HPSNZ employs and contracts a large group of staff to work with NSOs in this area. This includes approximately 128 (86 FTE) Athlete Performance Support (APS) team members who deliver a range of performance science, medicine and therapies to nearly 600 athletes across 23 sports<sup>3</sup>.
- 4.7 The APS team is made up of subject matter experts across multiple disciplines including medicine, athlete life, psychology, strength and conditioning and nutrition. The vast majority of these subject matter experts are either self-employed contractors hired by HPSNZ or are directly employed by HPSNZ - even though many of them work directly with NSOs and some are deeply embedded within the NSO's high-performance programmes.
- 4.8 High performance athletes and coaches, on the other hand, typically enter into agreements with the NSO, not with HPSNZ, and their training environment is typically controlled by the NSO.
- 4.9 As such, the New Zealand high performance model is one where HPSNZ invests significant funds into an NSO's HP programme and quite reasonably expects a return on that investment if such funding is to be maintained. The NSO has the autonomy to select and contract its athletes and coaches and to run its daily training environment but, in order to be successful, it inevitably has to rely on the APS providers which are provided by their principal funder – HPSNZ.
- 4.10 There is inevitably some degree of tension in such a model. HPSNZ invests in a sport and expects a return on that investment, but to a degree, the success or otherwise achieved by the sport is influenced by the quality of the athlete support which HPSNZ itself provides. As one HPSNZ board member described it, "*HPSNZ is an investor, monitor of performance, co-strategist, and planner, and also a service provider*".
- 4.11 And, in the view of at least some of the people I interviewed (who had past experience as elite athletes) it can be quite challenging for a NSO to fully embrace the athlete support provided by HPSNZ (and to be fully transparent with some of those providers) if they are viewed as HPSNZ staff who are ultimately accountable to HPSNZ. My own experience in NSO governance is consistent with this view.
- 4.12 The purpose of this audit is not to examine the effectiveness of the current system. However, as will emerge through this audit report, when it comes to

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<sup>3</sup> Athlete Performance Support Future Direction presentation - August 2020.

examining HPSNZ's response to issues relating to athlete wellbeing, the "multiple hats" worn by HPSNZ is a factor that must be acknowledged.

## 5. ISSUE ONE

***Identify whether the systems in place within HPSNZ for escalating issues brought to the attention of HPSNZ are robust and how they may be improved.***

- 5.1 Every person interviewed was asked to describe the system HPSNZ currently has in place for escalating issues related to athlete wellbeing. There was a high level of consistency in the responses I received.
- 5.2 Many of the people I interviewed acknowledged that in recent years, there has been a far stronger focus on the importance of athlete wellbeing within HPSNZ. I was told it was a "top of mind" issue at board and senior management level, that the CEO, Michael Scott, is driving the message that performance is enhanced by environments that prioritise athlete wellbeing and there is now much more education and training of HPSNZ staff on issues such as identifying bullying and other forms of unacceptable conduct.
- 5.3 It was also very apparent that athlete wellbeing and engagement will form a key part of HPSNZ's future strategy. Although that strategy has not yet been finalised or published, the material I have seen makes it clear that going forward, HPSNZ intends to place a far greater focus on investing in environments that optimise potential and which empower individuals to speak up and for the athlete's voice to be heard.
- 5.4 However, because of the emphasis being placed on athlete wellbeing, there is also some frustration within HPSNZ (particularly at board and senior management level) that sports which have received substantial support from HPSNZ have continued to burst into the national spotlight with serious issues relating to athlete wellbeing.
- 5.5 And certainly, in the most recent situation involving Canoe Racing, a number of board members felt quite strongly that they did not have sufficient awareness of the extent of the athlete wellbeing issues apparently present within that sport. And, to some extent, the CEO himself also felt he was less informed than was ideal.

### **The Current System**

- 5.6 So, what is HPSNZ's current escalation process when issues relating to athlete wellbeing arise?
- 5.7 **BAU:** For many HPSNZ staff, particularly those in the APS team, athlete wellbeing issues are simply part of "business as usual." For example, an athlete struggling with bad sleeping patterns or a potential eating disorder issue would typically seek the support of one or all of the APS doctor, performance psychologist, nutritionist and or athlete life advisor working with

that athlete, and a plan of support would be developed using the expertise available within HPSNZ and (if possible) within the NSO.<sup>4</sup>

5.8 **Chain of Command:** But if a HPSNZ staff member has concerns beyond a BAU situation (say a potential bullying scenario within an NSO), then effectively, there is a “chain of command” to escalate concerns. While this chain of command is not formally documented (a factor which I comment on later), the process to follow does appear to be reasonably well understood within the organisation.

5.9 In essence:

- a) If a member of the APS team had this type of concern, that person would usually first discuss the issue within their own team to test their thinking. Additionally, in a number of disciplines within HPSNZ, there is formal internal supervision.
- b) Having done so, if the employee was still concerned, they would be expected to raise the issue with their Head of Discipline within HPSNZ (for example with the Director of Performance Health or Head of Performance Psychology).
- c) Alternatively, the staff member may approach the Performance Team Leader (PTL) responsible for that sport, sometimes in conjunction with the Head of the Discipline, to discuss the concerns and to consider options. HPSNZ has 6 Performance Team Leaders (PTLs) who are allocated across key NSOs and all key communication between HPSNZ and those NSOs is meant to be channelled through the PTL.
- d) Another avenue where the APS team member can raise concerns and/or test thinking is the General Manager of Athlete Performance Support, to whom the APS Heads of Discipline report. If the PTL and APS providers were not of a like mind, this would be an obvious avenue.
- e) Alternatively, the escalation of an issue between a PTL and Head of Discipline could be directed to the Head of the PTLs.
- f) And finally, any employee can raise concerns directly with the Risk Response Team (RRT), a group established in 2019 and currently consisting of HPSNZ’s General Manager Performance Partnerships, the Head of Performance Psychology, the Director of Performance Health and the General Counsel. The terms of reference of the RRT, although still in draft (a point I also comment on later) state that the purpose of the RRT includes to support staff who are dealing with relevant behaviour or wellbeing issues and to facilitate a transparent and consistent approach across the organisation to addressing these issues.

5.10 **Health Checks:** In addition to this escalation process, the other principal way in which HPSNZ identifies and escalates issues relating to athlete wellbeing is through “*Health Checks*.” This was an initiative created by HPSNZ under the leadership of Michael Scott.

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<sup>4</sup> Always subject to the athlete’s willingness for the information to be shared.



- 5.11 Every six months, the PTL meets with the High-Performance Director (HPD) of their NSO and goes through a substantial checklist with both HPSNZ and the NSO ranking the NSO's effectiveness in a range of areas, applying a Red/Amber/Green (RAG) scoring system. Summaries of the actions being taken to mitigate any identified risks are also recorded in a Comments section.
- 5.12 The PTL is expected to consult with the HPSNZ service providers who are working within the NSO before finalising any HPSNZ rankings but the final decision on rankings and comments rests with the PTL.
- 5.13 The questions in the health check relating to athlete wellbeing are currently:
- a) Under the heading "Athlete Performance Services and Support" – *"does the HP programme (targeted campaigns and HPAD) get the right support from the right people in the right place at the right time?"*
  - b) Under the heading "Own the Moment" – *"is the culture/environment (DTE and touring/competition) an enabler of psychology?"*
  - c) Under the heading "Wellbeing and Voice"– *"do the athletes, coaches and staff have the necessary representation, financial stability, health support, people around them, and transition planning in place?"*
- 5.14 It is worth noting that in the initial health check document developed in 2018 there was a section specifically entitled "*Athlete Welfare/Wellbeing*" which asked the following question *"have the athletes been identified. Does this NSO have a health and wellbeing plan and/or approach? Is there consideration of the plan for athlete voice, is there a good communications plan in place for information to be sent to athletes and to get feedback in return"*.
- 5.15 However, in 2019, a decision was made to streamline the health check form, and the question noted above was changed to *"is the culture/environment (DTE and touring/competition) an enabler of psychology?"*
- 5.16 The health checks are provided to the HPSNZ board (through board papers) and they appear to be the main mechanism in place for ensuring the board is kept up to date about the progress of each NSO in a range of areas, including athlete wellbeing.
- 5.17 However, all board members emphasised that the CEO frequently provides updates to the board in between board meetings as and when issues arise, at board meetings there are "Tokyo Focus Updates" on all key sports as part of the regular CEO's report to the board, and there was general consensus that the CEO/senior leadership team have been very good at updating the board on athlete wellbeing issues.
- 5.18 **Risk Register:** I also note that, in accordance with good governance principles, HPSNZ maintains a Risk Register. This identifies a range of major risks for the organisation, classifies those risks and identifies various current and potential mitigations to deal with those risks. One of the main risks identified within HPSNZ is "*Sports Reviews*". This risk is said to arise from, amongst other things, a lack of accountability for poor behaviour in a high-

performance environment and inadequate processes to escalate issues. Mitigation steps are listed to try to ensure such reviews are not needed.

- 5.19 I understand the Risk Register is regularly reviewed and updated at board and senior management level, and this process provides another mechanism by which issues relating to athlete welfare can be identified and escalated to board level.
- 5.20 In summary then, the escalation processes within HPSNZ when athlete wellbeing issues arise (beyond BAU) involve:
- a) Escalation through a well-established chain of command.
  - b) A right to escalate concerns to the RRT.
  - c) Six monthly health checks (which contain three sections touching on athlete wellbeing) which are seen by the board.
  - d) Reporting to the board by the CEO on an as-needed basis (at or between board meetings) if serious athlete wellbeing issues arise; and
  - e) Identifying athlete wellbeing concerns through the regular review and updating of the Risk Register.

#### **Is the System Effective?**

- 5.21 The system described above is, of itself, reasonably effective and functional. However, in my view there are some clear gaps in the system and room for improvement.
- 5.22 **A Documented Escalation System:** The first gap, in my view, is that while the escalation system is reasonably well known and understood, it is not documented. Given I was repeatedly advised that athlete wellbeing is an absolute priority for HPSNZ, the organisation should have a clearly articulated document setting out the steps any employee<sup>5</sup> should take if they feel the need to escalate an athlete wellbeing concern.
- 5.23 Not only will this give some guidance to HPSNZ employees when they are grappling with how to handle an athlete wellbeing concern, it will also make it less likely that a concern will slip through the cracks or run into a roadblock which the employee feels is insurmountable.
- 5.24 Ideally, any documented approach would also include a simple wire diagram which would show the escalation process visually.
- 5.25 I am aware that HPSNZ already has an Internal Complaints Policy but, as that name suggests, this addresses internal complaints about behaviour in the HPSNZ workplace - whereas what I believe is needed is a policy which documents how to escalate concerns about the wellbeing of athletes, even if this has occurred in their NSO environment.

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<sup>5</sup> Although I refer to employees, HPSNZ contractors should have the same ability to escalate issues through this system.

- 5.26 The NZOC has a “Reporting of Concerns” policy which provide staff with guidance on the approach to follow if they come aware of information of concern about a range of areas relating to integrity, security, health and safety and the like, and I would encourage HPSNZ to consider a similar approach for issues of athlete wellbeing.
- 5.27 However, as is the case with the NZOC document, it may be this could be drafted in broader terms to capture a range of other misconduct/unacceptable behaviour or integrity issues that staff members might have observed internally or externally, which they need to escalate.
- 5.28 This is, in my view, an “easy fix” which I would encourage HPSNZ to address promptly.
- 5.29 **Role of GM Athlete Performance Support and Head of the PTLs:** I was surprised by what appeared to be the relatively low level of involvement of the General Manager, Athlete Performance Support in a number of the issues that have been escalated within HPSNZ. Given this role has overall responsibility for performance health, performance science and athlete life (as well as a number of other disciplines) there would seem to be some logic in the person holding this role being far more heavily involved in advocating the roles and perspectives of the APS providers and in ensuring that decisions made at various levels in the organisation are communicated back to members of the APS team.
- 5.30 Similarly, HPSNZ has a senior and very capable Head of the PTLs whose involvement in the escalation process is not clearly defined.
- 5.31 In my view, if/when the escalation process is documented, it may be that if a head of discipline and a PTL have a different perspective on a wellbeing issue (or are unsure how the issue should be addressed) the logical next escalation point should be to the Head of the PTLs before escalation to General Manager level. This way, the skills and experience of the individuals in these roles can be properly utilised.
- 5.32 **Risk Response Team:** In my view, the RRT has an extremely important role to play within HPSNZ.
- 5.33 One of the main challenges some members of the APS team raised with me was that they feel the concerns they raise in relation to athlete wellbeing are sometimes not progressed once raised with the PTL. They attributed this to the close working relationship each PTL has to have with their NSO (and a perception that PTLs are naturally reluctant to jeopardise that relationship). There is also a perception held by some that PTLs have a high-performance mindset that can, at times, diminish the importance of athlete wellbeing.
- 5.34 As one member of the APS team described it *“not everyone believes we get great performance without the ruthlessness and competitiveness that creates unhealthy stress, there was an era when certain practices were considered acceptable that aren’t acceptable now... There is still a little bit of that “harden up, it’s high-performance sport” within all sports and HPSNZ and that while they say it’s no longer all about medals, for many it still is. It is easier to drive performance with things you can measure and the impact on wellbeing is difficult to quantify.”*

- 5.35 I should emphasise that this is not the view of all APS providers, but it was the view of some quite senior members of that team.
- 5.36 On the other hand, I was very impressed by the experience, knowledge and passion of the PTLs and those staff working in the Performance Partnerships side of the organisation, all of whom acknowledged peak performance and athlete wellbeing are intrinsically connected. The argument put to me was that a PTL would never ignore the importance of athlete wellbeing, that the PTLs (and most NSOs) fully understand the importance of a challenging but safe environment – but that to prepare a successful HP athlete, you need a level of challenge in order to improve, and that while there is no place for an environment to be dangerous or harmful, it can be tough.
- 5.37 It was also suggested to me (by several people) that one of the challenges for the APS providers within HPSNZ is that some of them do not understand or accept that the NSO (in particular the coach and high-performance director) has ultimate responsibility for deciding on the type of training environment it wants. And while HPSNZ can influence the environment, it does not control that environment and HPSNZ must respect the autonomy of the NSO to run its sport.
- 5.38 Under the current model, in my view these differences in perception are not particularly surprising or unusual. However, this is where the RRT can play a vital role. If one uses a scenario where a PTL feels the training environment within a sport is challenging and tough but not unhealthy, and a performance psychologist is seeing concerning trends in the athletes he/she works with and is concerned the environment may be unsafe, then the matter should be escalated through a documented chain of command. However if serious concerns or differences still exist, the RRT can play a vital role in ensuring a fresh and objective assessment can occur, utilising the skills of senior and highly capable managers who have not been dealing with the issue at an operational level.
- 5.39 However, because of the important role this group has, as a starting point, the terms of reference for the RRT need to be finalised and published.
- 5.40 A number of people also referred to the lack of visibility surrounding the RRT and how its role was not promoted within HPSNZ. By way of further evidence of this, a number of board members did not appear to be aware of the existence of the RRT and some of those who did, were unsure of its mandate.
- 5.41 Therefore, I would strongly encourage HPSNZ to not only finalise the terms of reference for the RRT but to refer to its role in any documented escalation policy and to promote its role widely within HPSNZ.
- 5.42 Another aspect of the RRT worth commenting on is its record keeping/documentation. While I was advised that the RRT has now met on three or four occasions, much of what it has done has not been documented. That is primarily because athletes who have raised concerns about their training environment and/or how they were being treated, have usually insisted on having their name (and sometimes the fact they have raised concerns at all) kept confidential. HPSNZ is subject to the Official Information Act and there has been an understandable concern that if information provided by an athlete in confidence, is recorded and discussed in writing by

HPSNZ staff, the athlete's name/issues could be publicly revealed via a request under this legislation.

- 5.43 While I understand this concern, the lack of documentation means those people who have escalated issues to the RRT (and indeed some members of the RRT itself) feel there is a lack of transparency, and little follow-up or feedback after the group has met. As one person described it, issues are raised and discussed but then seem to disappear into the ether.<sup>6</sup> While I am confident (on the material I have seen) that issues raised with the RRT have been taken seriously and actions have been taken in response to issues raised, there does appear to be real room to improve communication.
- 5.44 I understand HPSNZ is obtaining legal advice on the application of the Official Information Act to the workings of the RRT. However, regardless of that advice, I would have thought it should be possible to take minutes of RRT meetings and to prepare reports of matters being considered by the RRT in a way that anonymises the athlete and, if necessary, the sport - and I would encourage the RRT to consider adopting this approach.
- 5.45 And although I address these issues more in the last section of this report, I would recommend that the minutes of all RRT meetings are sent to the CEO (alongside the RRT members) and the CEO can then make an assessment as to whether the issues warrant immediate escalation to the HPSNZ Chair and board.
- 5.46 I also believe HPSNZ should reconsider the composition of the RRT. The General Counsel currently sits on the RRT alongside the GM Performance Partnerships, but (for reasons that were not clearly explained to me) the GM Athlete Performance Support does not. Instead, two of the APS Heads of Discipline - Dr Bruce Hamilton and Kylie Wilson sit on the RRT.
- 5.47 While both are world-class leaders in their respective fields, in my view, a more coherent and logical structure would see the General Managers of the two relevant parts of the organisation (Performance Partnerships and Athlete Performance Support) represented on the RRT alongside the General Counsel, with advocacy/expert views provided by the subject matter experts and those working with the sport. While this would often include Dr Hamilton and Ms Wilson, it might just as easily involve the Head of another Discipline - alongside any submissions by the relevant PTL.
- 5.48 That approach should also help ensure the RRT is looking at matters with a fresh and independent perspective, and not through an operational lens.
- 5.49 **Health Checks:** I was advised that HPSNZ is currently reviewing the content of its health check procedure to ensure it is properly aligned with the organisation's future strategy and operational framework. I believe that review is timely.
- 5.50 The use of health checks, as a general concept, is to be applauded. But I agree with several staff and directors who feel the current health check system has some gaps.

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<sup>6</sup> This is not in any way a criticism of HPSNZ's existing General Counsel who appears to be extremely competent, dedicated, and hard working – rather that more resource may be needed in this area in order for the RRT to be totally effective.

- 5.51 Health Checks appear to have two primary but somewhat different, objectives. The first, and I suspect most important objective, is to give HPSNZ staff and their NSO counterparts the opportunity, twice a year, to step back from their day-to-day dealings and assess at a more holistic level what is working well and not so well, within a campaign. The sections of the report are worked through together in a collaborative and transparent way and the final report is shared openly. I have little doubt that this is an extremely valuable tool for both the NSO and HPSNZ management to assess progress.
- 5.52 The other main purpose of the health check, at least in the eyes of several directors I spoke to, is that it is meant to give the board a clear snapshot, twice a year, of where a sport is at, including whether it is providing athletes with a safe and constructive environment that promotes athlete wellbeing. Several directors indicated they have typically placed quite a high level of reliance on what is stated in the health checks (albeit alongside the other reporting that occurs).
- 5.53 One of the first questions I would encourage HPSNZ to ask, as part of any review, is whether one health check document can achieve both of these objectives. The health check prepared by the PTL inevitably has to be couched in a way that maintains and promotes a strong working relationship with the NSO. That is not to suggest the health checks are in any way watered down but inevitably they must be worded in a way that maintains the sense of partnership between the parties.
- 5.54 HPSNZ's board members, on the other hand, emphasised time and again that athlete wellbeing was the number one priority for the organisation and that if management had **any** doubts about an NSO environment, or if there were differences in opinion between management about athlete wellbeing, then those issues need to be brought to the attention of the board. In effect, they are looking for a "warts and all" unfiltered assessment about how each NSO is progressing in terms of athlete wellbeing. I am confident this is not so that the board can take over the handling of the issue but rather so that it is fully informed before issues escalate.
- 5.55 In my view, it is difficult for one document to fulfil both of these objectives. One alternative approach could be for HPSNZ to develop a separate reporting mechanism for the board only, which focuses on whether each NSO is truly committed to athlete wellbeing and which provides the warts and all assessment noted above. This could perhaps be tabled twice yearly, and would not need to be particularly detailed - but it would provide the level of focus and scrutiny the Board is seeking on this issue. This approach would also allow the existing health check process to continue largely in its current form.
- 5.56 A related issue involves the level of input of the APS team into the final content of the health check. Under the current HPSNZ structure, as it was described to me the PTL is "*the main contact, the one source of truth for communications between HPSNZ and the NSO and works closely with the NSO to determine their campaign needs and he/she then leads the service team that provides those services.*"
- 5.57 The PTL is meant to consult closely with the service providers working with the sport before completing the health check. However, I was advised by

several people that the approach of the PTLs varies significantly with some PTLs seeking the views of the APS team in writing, some verbally “*and some don’t ask at all.*” I was told this has led to significant frustration from some members of the APS team.

- 5.58 Additionally, some members of the APS team expressed the view that, even when they are consulted, the final content of the health checks do not consistently reflect their views.
- 5.59 I appreciate that it is quite possible a PTL and a member of the APS team may have a very different perspective about, for example, whether a sport is truly committed to providing a safe and appropriate training environment. The PTL might also question whether a doctor or performance psychologist is best placed to assess whether a training environment appropriately prioritises athlete wellbeing, particularly as the doctor or performance psychologist may not be in that environment very often and may be relying solely on what they are told by a particular athlete(s).
- 5.60 Again, the fact there will sometimes be differences in perspective on this issue, is not unexpected. However, HPSNZ does need to ensure that there is a consistent approach from PTLs, and that genuine consultation is taking place.
- 5.61 And, given the views expressed to me by several board members, HPSNZ also needs a system in place which ensures that, if serious differences of opinion exist amongst management in relation to athlete wellbeing, that is an issue the board becomes aware of.
- 5.62 If the changes to the RRT noted above are implemented, that would be one way for a genuine concern to be escalated at least to the CEO. However, if the Board elects to commission the separate wellbeing report noted above, then it should be possible to design this in such a way that allows the APS heads of discipline to contribute to this. That would appear to meet the boards need to ensure the views of the heads of discipline on issues relating to athlete wellbeing, can be heard in a direct and unfiltered manner.
- 5.63 This approach might also have one other indirect benefit. A number of people within HPSNZ (particularly from the Performance Partnerships side of the organisation) explained that one of their frustrations with the current escalation system is that, even if members of the APS team have concerns about an NSO environment, they often do not speak up or if they do, they filter their concerns in such a way that is difficult, if not impossible, to respond. Names of athletes and specific examples of concerning behaviour are often not provided, making it difficult for the PLT to take the issue up with the NSO.
- 5.64 The inevitable response of APS team members is that they are bound by strict confidentiality and ethical requirements - and they also have to try to maintain strong working relationships with the NSO and athlete. Therefore, they must at times, raise concerns within HPSNZ by referring to “themes” they are seeing or trends they are noticing – rather than by naming specific athletes or referring to specific incidents.
- 5.65 Both perspectives are understandable. It is natural for the Performance Partnerships team to be frustrated if the information they sometimes receive is vague or non-specific (particularly if it not consistent with their own

observations of the sport) and it is extremely difficult for them to raise issues with the NSO in such circumstances. On the other hand, the APS team are highly trained specialists and some members feel, at times, that their advice is not valued or respected. Again, to some extent, this level of tension is inevitable under the current model.

- 5.66 However, by allowing the APS team members direct input into some form of direct board reporting mechanism, they will have to “*get off the fence*” and express their concerns in a direct manner, both within HPSNZ and to the NSO. And, if the questions in this wellbeing report are drafted appropriately, they should, in my view, be able to do this without breaching confidence. Similarly, if the PTL still had ultimate authority for the separate health check, the integrity of the current model where the PTL remains the main contact point for the NSO, is maintained.
- 5.67 In terms of the content of the current health check form, I would encourage HPSNZ to review the content of the questions focusing on athlete wellbeing. As noted earlier, in the original health check in 2018, there was a section specifically focused on athlete wellbeing. In my view, the questions that now touch on the issues of athlete wellbeing lack specificity and provide too much room for obfuscation.
- 5.68 The main question under the heading “Own the Moment” is – “*is the culture/environment (DTE and touring/competition) an enabler of psychology?*” In my view, read in isolation, this is a rather vague and open-ended question - an environment might for example be an “enabler of psychology” but that does not mean the NSO is providing athletes with a safe, healthy, positive environment where athletes can speak up without fear of the consequences.
- 5.69 It was explained to me that this is a summary question only and the answer is to be assessed by reference to a range of quite specific supplementary questions which do focus on wellbeing in a much more detailed way. However, I was also advised (by some of those people primarily responsible for completing the health checks) that these supplementary, more detailed questions are often not considered or referred to at all when completing the health check and the system is not working as originally intended.
- 5.70 As such, this does seem an appropriate time for HPSNZ to review the wording of these questions, and to consider whether the supplementary questions are adding the value intended.
- 5.71 **Risk Register:** In relation to the risk register, I would encourage the board and senior management to look again at risk # 8 (sports reviews) as I query whether this is the appropriate way to describe this risk for the organisation. In my experience, most of the sports reviews which have taken place in New Zealand in recent years have been based on, or closely connected to, athlete wellbeing related issues. In my view, athlete wellbeing being compromised or ignored is the actual risk for HPSNZ - sports reviews are merely one possible consequence of that behaviour.
- 5.72 It might be argued of course that the NSO (rather than HPSNZ) is the entity primarily responsible for the wellbeing of its athletes (a point I address in more detail later in this report) and sport reviews are the consequential risk for HPSNZ. However, recent history suggests that whenever athlete wellbeing



issues come into the public domain, some responsibility/ blame is sheeted home to HPSNZ, regardless of its role, and regardless of whether there is a formal review or not.

- 5.73 Additionally, damaging and unhealthy environments will also impact on performance - and as such, undermine HPSNZ's investment in a sport.
- 5.74 If a failure to provide safe, constructive environments for athletes is included as one of the principal risks for HPSNZ in its risk register, management will be required to consider, before every board meeting, the status of this risk and whether anything has happened since the last board meeting to warrant a change in that status. In my view, that is entirely consistent with the philosophy repeatedly expressed to me by members of the board, that athlete wellbeing has to be constantly top of mind for HPSNZ.

### **Escalation of Canoe Racing Issues**

- 5.75 As noted at the outset, the focus of this audit is not to examine the events in relation to Canoe Racing NZ nor to reach any view as to what did or did not occur in that environment.
- 5.76 However, because several APS providers and board members expressed quite strong views to me about HPSNZ's role in the recent events involving that sport, I simply note that, in my view, several of the recommendations noted in this report may well have assisted if they had been in place at the time the issues arose involving that sport.

## **6. ISSUE TWO**

### ***Consider whether proposed interventions were properly implemented.***

- 6.1 The proposed interventions referred to in relation to this section of the terms of reference were contained in a document entitled "HPSNZ Athlete Wellbeing Review" dated November 2017. This was a document prepared by two of HPSNZ's then senior managers and arose after a series of serious health events had occurred in Canoe Racing involving an athlete.
- 6.2 The purpose of the review was to understand the factors that had contributed to the health issues the athlete had experienced, and to make a series of recommendations/key themes to consider going forward.
- 6.3 Somewhat surprisingly, this review was not shared with the HPSNZ Board at the time. The existing CEO, Michael Scott, was also not employed by HPSNZ at the time of this review, the document was not part of his initial briefing, and he was unaware of its existence until relatively recently.
- 6.4 Nevertheless, it is appropriate to consider the extent to which the recommendations/ themes in this paper were actioned.
- 6.5 The key action recommended in the report was for:

*HPSNZ to develop and implement a protocol for communication and escalation of critical athlete wellbeing issues. A small group of content-specific experts to be convened in November to develop a protocol for approval by SLT.*

6.6 This small group did convene and eventually, the Risk Response Team was created. As such, this key action was clearly implemented.

6.7 In terms of the other recommendations/key themes, recommendation/theme 1 was:

*HPSNZ to work closely with NSOs to consider the amount of time key practitioners are allocated to sports to make sure they build a strong relationship with HPDs and coaches. There should be sufficient time for all to understand each other's roles and to be able to appropriately be proactive and reactive to certain cases.*

6.8 There is a strongly held view by some senior members of the APS team that this recommendation was not implemented in relation to Canoe Racing, nor in relation to a range of other sports. Instead, those individuals expressed the view that under the current service model, athlete service providers are less integrated/embedded in the daily training environment of NSOs.

6.9 However, this recommendation was made prior to the 2018 restructure which led to the introduction of PTLs, which was designed, in part, to ensure communication with NSOs was better coordinated through one primary source.

6.10 Furthermore, the level of integration of providers seems to vary from sport to sport and depends, inevitably, on what level of support the NSO feels it needs in consultation with the PTL. And the final decision in that regard must inevitably rest with the NSO. Therefore, I do not believe it is fair to say this recommendation has not been implemented – rather the extent to which APS providers build strong relationships with coaches and HPDs inevitably varies from sport to sport based on the perceived needs of the sport.

6.11 Recommendation/theme 2 was:

*Thorough communication by practitioners to sport is important, to both skilfully stress the importance of a risk situation to influence good decision making and to keep sport up to date where appropriate during ongoing treatment.*

6.12 As noted earlier, this review was written before HPSNZ established its new partnership model in 2018, which was based on the premise that all key communication between HPSNZ and the NSO occurs via one communication channel being the PTL. This approach deliberately places limits on when a service provider should raise issues directly with the sport.

6.13 Again, some members of the APS team feel their communication to sport has been compromised under this model. I agree that the level of direct communication from service providers must have been reduced under the

new model. And the model does depend on the PTL's skill and experience to accurately assess a risk situation and to communicate effectively.

6.14 Therefore, while it is fair to say this recommendation has not been implemented, that is the result of a deliberate decision by HPSNZ.

6.15 Recommendation/theme 3 was:

*Key practitioners should be accessible.*

6.16 Nothing I have seen or read throughout this audit process has called into question the accessibility of key practitioners, particularly in crisis situations.

6.17 Recommendation/theme 4 was:

*It is important that practitioners align to sport performance related decisions and that they are impartial, although noting that the duty of care to an individual should take precedence in cases with significant health situations.*

6.18 This appears to be more a comment than a recommendation/theme. Members of the APS team who I interviewed did acknowledge that NSOs are sovereign bodies who will not always agree with their advice or opinions. Nevertheless, the system within HPSNZ needs to be one where they can express their views and opinions, confident they will be heard and their views considered and not shut down for fear of upsetting the NSO. For the reasons noted earlier, there are areas where the system can be improved in this regard.

6.19 Recommendation/theme 5 was:

*HPSNZ to review our screening and/or early detection processes for a predisposed mental health issue.*

6.20 This recommendation appears to have been addressed through a Mental Health Strategy developed by Bruce Hamilton and Kylie Wilson in October 2019. A number of steps have been taken as a result of that strategy including a Mental Health Symposium with NSOs, improved mental health screening, medicine and psychology meetings focused on mental health and increased access to specialist psyche support, both internal and external, private and community.

6.21 Recommendation/theme 6 was:

*Following a discussion and agreement with the Performance team, elevate cases to SLT when a person's wellness maybe at risk.*

- 6.22 As noted earlier, the Risk Response Team was eventually established, although there is scope for the flow of information from the RRT to the CEO and board to be improved.
- 6.23 Recommendation/theme 7 was:
- HPSNZ to review how a faster referral system can be enhanced for elite athletes to specialist care. Assess MOUs, referral checklists and faster accessibility methods.*
- 6.24 This has been addressed in the mental health strategy referred to earlier, and specifically through the contracting of internal clinical psychologists based in Auckland and Cambridge.
- 6.25 Recommendation/theme 8 was:
- Athlete Life and/or Performance Psychology stressing the importance of promoting general wellbeing as a foundation for performance may help athletes' transitions into the system more successfully.*
- 6.26 Again, this appears to be more a comment than a recommendation. Nevertheless, I understand there have been improvements in the athlete induction process (including a booklet that all disciplines contribute to, with inclusion of the Own The Moment framework).
- 6.27 Based on the above analysis, in my view the one key action and most of the main recommendations in the 2017 Athlete Wellbeing Review were implemented by HPSNZ, the exceptions primarily arising from the decision by HPSNZ in 2018 to move to its new partnership model and the establishment of the PTL role.

## **7. ISSUE THREE**

### ***Identify opportunities for HPSNZ to improve the way in which it monitors the effectiveness of interventions made to address concerns that are raised.***

- 7.1 In my view, it is not possible to assess the effectiveness of any HPSNZ interventions in matters relating to athlete wellbeing without first considering the fundamental issue of who actually is responsible for this issue.
- 7.2 The starting point in that regard is the law. The Health and Safety at Work Act 2015 (HSWA) is New Zealand's workplace health and safety law. Section 3(1) of the Act states that the Act's main purpose is to provide a balanced framework to secure the health and safety of workers and workplaces by "*protecting workers and other persons against harm to their health, safety, and wellbeing by eliminating or minimising risks arising from work ...*"
- 7.3 The Act places very significant responsibilities on a person conducting a business or undertaking (PCBU). In particular, a PCBU has the primary duty of care to keep its workers safe. It must do this by ensuring, so far as reasonably practicable, the health and safety of workers who work for the PCBU while those workers are at work. Just as importantly, the officers in

charge of the PCBU are legally required to exercise all due diligence to ensure that the PCBU complies with its duties and obligations under the Act.

- 7.4 It is also now well established that protecting the mental health and wellbeing of workers is no less important under the legislation than their physical health and safety.
- 7.5 These are obviously extremely important legal obligations which, quite rightly come with significant sanctions if they are ignored.
- 7.6 As for how the HSWA applies in the New Zealand high-performance sporting context:
- Many high-performance athletes and coaches operating in their training environment, will in my view, be classified as workers under the legislation.
  - And even if some athletes, coaches and other participants are not deemed to be workers, a PCBU must also ensure, so far as is reasonably practicable, that the health and safety of other people is not put at risk from work carried out as part of their business or undertaking.
  - The NSO will usually be a PCBU.
  - And the directors and CEO of the NSO will be the officers of the PCBU.
- 7.7 I refer to these obligations because a number of the people I spoke to in this audit were of the view that HPSNZ (as a funder and sports leader) had a direct duty of care to ensure the wellbeing of athletes training within the NSO environment. Following the same logic, that also meant if there were issues occurring, HPSNZ had a duty to both intervene and to monitor that intervention. With respect, I disagree.
- 7.8 The duty of care to provide a safe and healthy environment for athletes rests squarely with NSOs. And the directors and CEO of every NSO should be constantly focused on the issue of whether the NSO is meeting that duty of care. The health and safety of all of its people, including its athletes, should be one of the first agenda items at every board meeting, and each NSO should be regularly auditing and evaluating its environment to ensure there is a strong health and safety culture.
- 7.9 HPSNZ, in contrast, does not contract the athletes, it does not contract the coaches, it does not control the training and event environments and, most importantly, it does not run the sport.
- 7.10 The complexity with the current model obviously arises from the fact that HPSNZ does provide the NSO with subject matter experts across a range of disciplines, including those with skills in mental health and wellbeing. But the role of those service providers must be to work with the NSO to help ensure they are delivering an environment that ensures athlete wellbeing - and if they are not, then to try to assist the NSO to fill the gaps.
- 7.11 Ultimately though, the decision on whether the environment is safe for athletes must rest with the NSO, just as it rests with any other business which engages workers and welcomes people into their environment, across the country.

- 7.12 In my view, HPSNZ (as lead investor and a sports leader committed to athlete wellbeing) has both the ability and responsibility to make it clear to any NSO that, if it seeks high-performance funding, then its approach to athlete wellbeing has to be fit for purpose and aligned with HPSNZ expectations. HPSNZ is also entitled to monitor the NSO's training environment and if it has concerns about athlete wellbeing, it has a responsibility to say so. And if the NSO will not make adjustments, then logically HPSNZ has other levers it can consider including reducing the level of future support or even funding. But, legally, the buck in terms of health and safety must stop with the NSO.
- 7.13 Indeed, to some extent I would even question the appropriateness of the word "interventions." The NSO is the PCBU, it is responsible for the environment, its officers have significant personal responsibility for health and safety, and (unless the right is provided under the funding agreement) I question whether HPSNZ has any right to "intervene" in the NSO environment at all. Obviously, it can suggest changes or remedial action if an environment has gone "off-course" but the intervention needs to come from the sport itself.
- 7.14 Many of the Board and staff at HPSNZ agree that this is HPSNZ's role. Others feel HPSNZ's responsibility is much broader. However (leaving aside for a moment the fact that the NSO clearly has the primary legal responsibility), in my view, another issue arises if HPSNZ assumes too broad a mandate. That is, some NSOs will not give athlete wellbeing the priority it requires because they place some or all of the responsibility for providing a safe environment, back on to HPSNZ.
- 7.15 In my view, it is crucial that NSOs understand that their health and safety obligations extend as much to their athletes, coaches and other participants, as they do to other staff - and that like any other business in New Zealand, the NSO is responsible for providing an environment that is both physically and mentally healthy and safe. And it is equally crucial that HPSNZ reinforces those messages.
- 7.16 This is not a case of HPSNZ avoiding responsibility or putting the problem back on NSOs. Rather, it is acknowledging that athletes and coaches are legally entitled to the same protections as the rest of the country – and the obligations on NSOs are no different to any other PCBU. In my view, HPSNZ's role is to make this clear and to require NSOs to meet this obligation if they want support.
- 7.17 As such, I suggest the key consideration under Issue Three is not so much how HPSNZ monitors the effectiveness of "its" interventions but how the NSO monitors these - in consultation with HPSNZ, and then the extent to which information needs to be reported back to HPSNZ to ensure its investment is being spent appropriately. Fundamentally though, it is the NSO (and its board and CEO) which needs to know that its environment is safe for its athletes.
- 7.18 So, what are the opportunities for **both NSOs and HPSNZ** to improve the way in which they monitor the effectiveness of interventions made to address concerns that are raised. In my view, the following are worth consideration.
- 7.19 **Human Resource Initiatives:** in Michael Heron QC's review of Cycling New Zealand's high-performance programme, one of the reasons he attributed to that sport's failure to adequately deal with behavioural issues, was the lack of

human resources capability within the NSO. He noted that he had been told this lack of capability was not unique in NSOs, that salaries are not high in New Zealand sport, but workload is, the board are volunteers and he found “*there was a striking lack of HR capability*”. Mr Heron acknowledged the substantial support HPSNZ provided Cycling New Zealand but stated that support “*did not appear to be immediately relevant to the human resources capability.*”

- 7.20 I understand that within the New Zealand sports system, responsibility for working with NSOs to improve their human resources capability rests more within the ambit of Sport NZ than HPSNZ. I was also told that in the period since Mr. Heron’s review, Sport NZ has implemented a number of programmes in this area, including piloting a shared HR resource across a group of NSOs.
- 7.21 However, it appears that this work is primarily (if not exclusively) focused on the NSO’s relationships with its employees and usually does not extend to its high-performance athletes and coaches. Yet, as noted earlier, NSOs have a direct legal responsibility to provide a safe environment for these people.
- 7.22 While it was well beyond the scope of this audit to examine the HR capability of NSOs, the reality is that every NSO should be consistently “taking the temperature” of its athletes and coaches, and the training environment in which they operate, to assure themselves the culture is strong, and the environment is one where safety and wellbeing is prioritised.
- 7.23 I was told some NSOs are strongly focused on these issues but many simply do not have the time or resource to do so.
- 7.24 I was also advised that, in sports where the coach/high-performance unit has achieved strong international success (and secured significant high-performance funding) boards often rely on what they are told by their HPD/Coaches about culture and wellbeing - and that a director of such a sport would need significant courage to challenge a highly successful coach or HPD if that director had concerns about culture or athlete wellbeing.
- 7.25 While I understand this, the challenge a NSO board faces in understanding workplace culture and whether there is a genuine commitment to safety and wellbeing, is no different to many commercial boards, and there are a number of HR related initiatives that good employers regularly undertake to assess the culture of their organisation. Initiatives such as workplace culture surveys or audits, and employee engagement surveys typically give workers the opportunity to provide open and honest feedback about a range of issues within their workplace, with their confidentiality protected.
- 7.26 Good employers also use other initiatives such as 360 Degree Appraisals to assess, on an ongoing basis, the performance of staff (and to increase the employee’s own self-awareness) as well as exit interviews to ensure the business learns from departing employees.
- 7.27 In my view, if a director of an NSO wants to understand whether its high-performance training environment is providing athletes with a healthy and safe environment, he/she should be ensuring that the NSO is undertaking HR initiatives of the type set out above, on an on-going basis. And, in my view, Sport NZ/HPSNZ should be using their skills and resources to assist the NSO

to do so. Ideally too, Sport NZ/HPSNZ should get to see some or all of these results to ensure it is investing in the right type of environment.

- 7.28 And if a situation has arisen where an “intervention” has been needed (as in Christian Penny’s work with Canoe Racing) HR initiatives which take the temperature and assess the culture on an ongoing basis, will provide a strong mechanism to assess the effectiveness of that intervention.
- 7.29 **Athlete Voice:** in the course of this audit, a number of the people I interviewed spoke at length about the importance of a stronger “athlete voice”. There was almost a universal view that athlete wellbeing will be much better protected and enhanced if athletes have the ability to speak up, both within the daily training environment, and then through a mechanism where they can safely escalate issues, usually through a representative body like a Players Association or Athletes Commission.
- 7.30 Those views are entirely consistent with the findings by Stephen Cottrell in his November 2018 report “*Elite Athletes Rights and Welfare*” and also by a paper more recently prepared by Sarah Beaman for HPSNZ which considered the current practices of a range of sports in the area of athlete voice.
- 7.31 I am aware that a significant amount of work is being done at HPSNZ to create an environment within NSOs where athletes can raise issues without fear of retribution and also where they can escalate issues where necessary. I am also aware that some sports have made significant progress in having formal mechanisms for athletes to raise issues. While outside the ambit of this audit, I applaud this work.
- 7.32 However, in progressing its work in this area, I would encourage HPSNZ to consider the following:
- for an athlete voice system to be most effective and to truly advocate for athletes, coaches and others in the system, in my view it needs to be independent of the NSO. I have real doubt as to whether athlete voice models set up by a sport (and directly funded by that sport) will truly step up and advocate for athletes and coaches when the pressure really goes on, and where the advocates themselves may come under pressure. In my experience “in-house” representation can work reasonably well on issues that are not particularly controversial or challenging but the limitations of the model are exposed when difficult issues arise.
  - if an athlete voice mechanism can be successfully established within the sports which HPSNZ works with, then the issues raised by those athletes need to be heard by not just the NSO, but also by HPSNZ (as part of its responsibility to monitor the environment it invests in). So, I would encourage HPSNZ to explore ways in which athlete representative bodies can communicate directly with HPSNZ. I understand HPSNZ and the Athletes Federation now have a MOU which provides for, amongst other things, regular meetings, and initiatives like this should be extended as other athlete voice bodies are established.
- 7.33 **Independent Audits:** finally, I would encourage HPSNZ to examine the approach adopted in recent times by UK Sport, which it entitles *The Culture*



Health Check (CHC). This is an independently administered survey which provides athletes, staff and stakeholders the opportunity to give feedback about their experiences in their own sport's HP programme under three headings, Culture, Athlete and System. After the survey closes, an independent research company compiles a comprehensive report for each sport which is initially reviewed by a panel of internal executives within UK Sport with guidance provided by an expert advisory panel. Once the report is finalised, each sport is expected to give feedback directly to every athlete and staff member to interpret and contextualise the results and develop a Culture Action Plan in conjunction with UK Sport. UK Sport also has an independent panel of experts to review every Culture Action Plan and to provide constructive feedback and support where required.<sup>7</sup>

- 7.34 There are some obvious attractions with this type of approach. It makes it extremely hard for an NSO to simply pay "lip service" to culture and wellbeing because hard questions are asked, and the answers are shared beyond the sport. The process is independent, and experts are involved.
- 7.35 I imagine some New Zealand based NSOs (particularly the least resourced) would be concerned about the time and cost of undertaking this type of process. I also understand there have been mixed reactions to the process in the UK with some concern that it is a very compliance focussed and time-consuming procedure.
- 7.36 But, if NSOs want to know if they are meeting their duty of care towards their athletes and staff and if HPSNZ wants to make its support for the NSO conditional on the NSO meeting this duty of care, then an independent audit would seem like an excellent mechanism.
- 7.37 The concept of independent oversight is of course common in other industries in New Zealand (consider, for example, the role of the Education Review Office (ERO) in the education sector) and I would strongly encourage HPSNZ to explore the introduction of a similar model to the CHC in New Zealand.
- 7.38 Having said this, HPSNZ may well wish to adapt the UK model to something more appropriate for the New Zealand sport system. The UK approach is quite complex and, in all likelihood, expensive, and our NSOs will not readily embrace a system that is not user friendly. As such, HPSNZ might, for example, see the benefit in commissioning an annual survey similar to the UK for those sports it funds, which helps identify if red flags exist within that sport, but then adopt a more "horses for courses" approach to how to respond depending on the outcome of the survey.

## 8. ISSUE FOUR

***Identify whether it would be appropriate for HPSNZ to provide service providers with greater visibility over interventions as they are implemented.***

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<sup>7</sup> <https://www.uksport.gov.uk/news/2020/09/07/an-update-on-culture>

- 8.1 There is no doubt that some senior members of the APS team are frustrated by aspects of HPSNZ's current approach to athlete wellbeing. A number of those frustrations stem from the partnership model (where most communication must be funnelled through the PTL) and the lack of direct engagement some APS team members have with the NSO. It is not the role of this audit to consider the effectiveness of that model, which after all, is still relatively new to the organisation. I simply note the converse argument is the model has led to more streamlined and consistent communication between HPSNZ and NSOs and ultimately, the level of direct engagement HPSNZ's service providers provide to an NSO must be based on the needs of the NSO as set out in the campaign plan.
- 8.2 The other main frustration relayed to me was the perceived lack of visibility over interventions and actions taken by HPSNZ in response to concerns that have been raised. I was told by a number of people that the lack of feedback means the APS provider is left uncertain about whether anything has been done and whether their advice is given value.
- 8.3 I do believe there is scope for HPSNZ to make improvements in this area, (and several of these were largely canvassed in the commentary under Issue One). In particular:
- a) I recommend more comprehensive recordkeeping of the work of the RRT, including minutes. I also believe there should be a formal report to the CEO after every meeting - even if the identity of the athlete/sport is kept anonymous. The CEO should then assess the need to inform the board Chair.
  - b) I recommend the General Manager Athlete Support has a more active role both within the RRT and also in reporting back to members of the APS team about how issues are being handled and communicated back to the sport.
  - c) I recommend HPSNZ considers introducing some other form of reporting mechanism to the Board on athlete wellbeing related issues and the APS team has the ability to feed their comments directly into that report (thus ensuring the provider has full visibility over what is said in relation to athlete wellbeing).
  - d) And if some of the initiatives referred to in the previous section of this report (such as independent audits) are instigated, it would seem appropriate that those members of the APS team working in the area of culture and wellbeing, should see the outcome of those audits, for those sports they are working with.
- 8.4 However, none of this changes the view expressed in the previous section of this report that ultimate responsibility for athlete wellbeing and culture rests with the NSO - not HPSNZ.
- 8.5 To illustrate this, I was asked a number of times by members of the APS team what HPSNZ was doing to ensure the "Christian Penny intervention" in Canoe Racing will be successful and how will success be measured. While these are very reasonable questions, they are questions that, first and foremost, Canoe Racing need to ask.

- 8.6 Canoe Racing should be sharing the answers with HPSNZ who ultimately need to be satisfied that the environment is healthy and safe to justify ongoing support and investment. But legal responsibility rests with the NSO and so it must own the intervention.

## **9. ISSUE FIVE**

***Identify whether, and if so to what extent, board reporting and oversight could be improved.***

- 9.1 To a large extent, this issue has also been dealt with in previous sections of this report. As noted earlier, I am confident the CEO and SLT have a strong commitment to, and focus on, the importance of athlete wellbeing. It is also clear that the board has that same commitment and focus. The issue of athlete wellbeing is talked about regularly at board meetings and, on occasions, in reports between board meetings.
- 9.2 Having said this, several board members made it very clear to me that they wish to take a very low risk approach to matters of athlete welfare – in essence, they want to know if there are any issues of potential concern within a funded sport which could develop further. The approach they advocate is *“if there is any risk here, we want to know.”* In my view, to the extent this has not already happened, this message needs to be reinforced to management.
- 9.3 There was even a suggestion that athlete wellbeing should become a standing agenda item for the board - and that is something the board may wish to consider.
- 9.4 However, I suspect the issue of board oversight is better dealt with through the current system of health checks, reports on a sport-by-sport basis, and through constant monitoring, supplemented by the other changes noted above.
- 9.5 In particular, I believe the board’s oversight would be enhanced through the introduction of an athlete wellbeing report from management (perhaps twice a year) with scope for direct input from the heads of discipline; refinement to the wording of the risk register to more expressly deal with matters relating to athlete wellbeing and potential damage to HPSNZ’s reputation; the CEO should receive a report and the minutes of any RRT meetings and, in most cases, brief the Board Chair; and, if any of the recommendations under Issue Three of this report are advanced, particularly CHC/independent audits, then unquestionably the HPSNZ board should have visibility over those outcomes.

## **10. BROADER OBSERVATIONS**

- 10.1 The following comments fall outside the strict ambit of the terms of reference. However, I was advised that if issues arose during the course of

my interviews that had relevance to the issue of athlete wellbeing, then I could consider referring to these in this final section.

- 10.2 I have already commented on roles and responsibilities at some length under Issue three. I do not repeat those comments again here. However, in terms of HPSNZ's leadership role in the sport sector, having seen HPSNZ's draft 2024 Wellbeing Strategy, I would applaud the organisation for a great deal of the work being considered going forward.
- 10.3 In particular, if HPSNZ sends a clear signal to the New Zealand sports system that a strong and unequivocal commitment to athlete wellbeing will be a fundamental requirement in future funding arrangements, then this should help drive a step-change in the culture of some HP environments.
- 10.4 I also applaud HPSNZ/Sport NZ for their clear commitment to promote the voice of the athlete. Again, this will inevitably help drive culture change where it is needed in the sport sector.
- 10.5 I am also aware that consideration is being given to moving from the current delivery model of HPSNZ led APS practitioner provision and support to a more hybrid model where more APS practitioners are directly employed by or contracted to the NSO. Again, it is not the role of this audit to assess the appropriateness of that possible shift in approach. However, while there are inevitably both benefits and risks associated with such a change, I would encourage HPSNZ to promote a delivery model which empowers NSOs to accept athlete wellbeing (like any other aspect of health and safety) is their responsibility.
- 10.6 A number of those interviewed also spoke about their desire for the APS team to operate under a model where they are focused far more on enhancing performance and less so on clinical issues. The model promoted by some of those I spoke to endeavours to separate wellbeing/clinical support from performance support, with HPSNZ APS providers having a pure performance focus and clinical/foundation issues being referred to independent providers. This is a model used in some other jurisdictions.
- 10.7 As described to me, there is no issue when the APS team has a performance focus in their work such as building teamwork, culture and collaboration or an individual athlete's ability to perform under pressure. But when those areas get combined with clinical areas, there is a sense that the performance focus gets lost, and HPSNZ strays into areas beyond its mandate.
- 10.8 On the other hand, the APS team at HPSNZ contain some outstanding practitioners, and almost all of those I interviewed are of the view that it is impossible to separate performance psychology from wellbeing - that practitioners such as sports psychologists must make clinical judgements all the time - and those issues cannot be ignored if you want to "make the boat go faster."
- 10.9 Again, while strictly outside the ambit of this report, I have considerable sympathy for the views of the APS team on this issue. In my experience, it is highly questionable whether it is possible to draw a clear line between performance psychology and underlying foundation issues that may be directly impacting on an athlete's performance. And if part of the future focus

is to ensure NSO environments are safe and welcoming, and where athletes can speak up safely, I suspect the APS providers (whether contracted through HPSNZ or by the NSO) will have to support an athlete's holistic development rather than some form of artificial focus on services that might enhance immediate performance.

**CONFIDENTIAL**

**Terms of Reference  
Audit of Systems and Processes at  
High Performance Sport New  
Zealand**

**15 September 2020**

## Introduction

1. Reports containing allegations of bullying, intimidation and emotional manipulation within Canoe Racing New Zealand first appeared in the media on 30 August 2020.<sup>8</sup>
2. On Sunday 6 September 2020, Stuff published an article under the headline “*HPSNZ facing revolt within its ranks with claims senior leadership ignore athlete wellbeing concerns*”.<sup>9</sup> This article included the following statements:
  - (a) *Some at the government agency claim there has long been a “disconnect” between the senior leadership of high performance sports and service providers working with the athletes in their training environments;*
  - (b) *Stuff is now aware of at least four people who escalated issues about the canoe racing programme to senior leaders at High Performance Sport... The staff... are furious the senior leadership team is not only prepared to dismiss the concerns of the athletes, it is also ignoring the advice of its own experts on the ground; and*
  - (c) *The idea that they have taken ‘proactive steps’ is so, so far removed from reality.*
3. HPSNZ is committed to continuous improvement. This is aligned with HPSNZ’s values and the ongoing strive for excellence. As such, HPSNZ seeks to use this moment as an opportunity to seek an independent audit of its practices and processes, including any recommendations as to how those practices and processes may be improved (the Audit).

## Auditor

4. The Audit will be carried out by Don Mackinnon (Auditor). The Auditor will liaise with HPSNZ Director Ian Hunt and General Counsel Neena Ullal (the Key Contacts) on any matters relating to the Audit.

## Scope & Process

5. It is anticipated that the Audit will:
  - (a) Identify whether the systems in place within HPSNZ for escalating issues brought to the attention of HPSNZ are robust and how they may be improved;
  - (b) Consider whether proposed interventions were appropriately implemented;
  - (c) Identify opportunities for HPSNZ to improve the way in which it monitors the effectiveness of interventions made to address concerns that are raised;

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<sup>8</sup> Refer: <https://www.stuff.co.nz/sport/122604637/canoe-racing-nz-facing-athlete-welfare-crisis-as-two-thirds-of-elite-womens-team-quit> and <https://www.stuff.co.nz/sport/122606146/canoe-racing-nz-call-on-hpsnz-to-facilitate-mediation-with-top-paddler>

<sup>9</sup> <https://www.stuff.co.nz/sport/122669449/hpsnz-facing-revolt-within-its-ranks-with-claims-senior-leadership-ignored-athlete-welfare-concerns>

- (d) Identify whether it would be appropriate for HPSNZ to provide service providers with greater visibility over interventions as they are implemented; and
  - (e) Identify whether, and if so to what extent, Board reporting and oversight could be improved.
6. If any new and relevant issues come to the Auditor's attention during the course of the Audit, the Auditor may raise these matters with the Key Contacts, who will decide whether or not to incorporate them into the scope of the Audit and to amend these terms of reference accordingly.
7. The Auditor is to be provided access to all relevant information related to the matter. If any person believes their ability to provide relevant information is restricted by a professional obligation to maintain privacy and confidentiality, this shall be discussed with the Auditor and if appropriate, the Auditor will note the implications of this in his report.

### **Approach**

8. At this stage, the following persons have been identified as potentially being able to assist the Auditor (Interviewees):
- (a) Michael Scott
  - (b) Neena Ullal
  - (c) Eddie Kohlhase
  - (d) Martin Dowson
  - (e) Bruce Hamilton
  - (f) Kylie Wilson
  - (g) Campbell Thompson
  - (h) Adrian Blincoe



9. The Auditor will also contact each member of the HPSNZ Board to offer them the opportunity to be included in the list of Interviewees. The Board members are:
  - (a) Bill Moran
  - (b) Hilary Poole
  - (c) Ian Hunt
  - (d) Kylie Clegg
  - (e) Alison Shanks
  - (f) Waimarama Taumaunu
  - (g) Chelsea Grootveld
  - (h) Rowan Simpson
  - (i) Hetty Van Hale
  - (j) Peter Miskimmin
  - (k) Annette Purvis
10. If the Auditor identifies any other person whom they believe can assist, they will seek approval from the Key Contacts before interviewing those persons.
11. The following provides guidance as to the approach to be adopted in this Audit:
  - (a) The Auditor will contact the Interviewees to ask them to attend an interview with the Auditor to provide relevant information;
  - (b) The Auditor will provide each Interviewee with a written summary of the main points raised in the interview and provide the Interviewee with the opportunity to comment as to its accuracy;
  - (c) If the Auditor considers it necessary to do so, they may provide copies of written statements to other Interviewees for their comment;
  - (d) The Auditor's final report of findings will be provided in writing to the Key Contact.

### **Timing**

12. The Auditor will send the final report to the Key Contacts as soon as practical after the conclusion of the Audit process and will endeavour to do so by 31 October 2020.

### **Role of Investigator**

13. The Auditor is to follow these terms of reference.

14. If the Auditor requires clarity on the role of the Auditor or the scope of the Audit, the Auditor should contact the Key Contacts who will respond to the Auditor as soon as practicable.

### **Use of the Report**

15. HPSNZ will use the report to determine what steps could be implemented to improve the robustness of its systems and processes.
16. Any recommendations shall be considered by HPSNZ in good faith but for the avoidance of doubt, there shall be no obligation to implement all or any such recommendations.

### **Confidentiality**

17. While the intention is for HPSNZ to publish the results of the Audit in the interests of transparency, to the extent that any matters referred to relate to individuals or specific concerns, these matters will be redacted in the published version to protect their privacy and in recognition of the sensitive nature of some of the matters at issue.

## APPENDIX 2

1. Michael Scott
2. Neena Ullal
3. Eddie Kohlhase
4. Martin Dowson
5. Bruce Hamilton
6. Kylie Wilson
7. Campbell Thompson
8. Adrian Blincoe
9. Christine Arthur
10. Bill Moran\*
11. Hilary Poole
12. Ian Hunt\*
13. Kylie Clegg
14. Alison Shanks\*
15. Chelsea Grootveld\*
16. Peter Miskimmin\*
17. Josh Blackie\*\*
18. Wayne Maher\*\*

\* interviewed by zoom.

\*\* Interviewed by zoom post receipt of the draft report.