

**IN THE MATTER OF PROCEEDINGS BROUGHT UNDER THE ANTI-DOPING RULES OF
THE RUGBY FOOTBALL LEAGUE**

Before:

Dame Anne Rafferty DBE
Katherine Apps
Dr Gary O’Driscoll

BETWEEN:

UK ANTI-DOPING LIMITED

Anti-Doping Organisation

and

BEN HARRISON

Respondent

REDACTED DECISION OF THE NATIONAL ANTI-DOPING PANEL

PRELIMINARY

1. We were appointed, by the President of the National Anti-Doping Panel (“NADP”) as the disciplinary tribunal to hear charges brought by UK Anti-Doping (“UKAD”) against Ben Harrison under the anti-doping rules of the Rugby Football League (“RFL”), the national governing body for rugby league in England. On the application of UKAD our decision has been reached on the papers.

2. For UKAD, Mr Tom Middleton submitted lengthy written arguments for which we were grateful. Mr Harrison made no representations to the Tribunal, and as will become clear his input into the decision-making process has been limited. We were astute to ensure he was given, by email and by Royal Mail Recorded Delivery letter, notice of the risk he ran of the Tribunal drawing an adverse inference from his failure to engage. Neither generated a response. The adverse inference warning had also been explicit: determinations would be made by the Tribunal even if he did not respond, and the Tribunal would consider matters in his absence.

JURISDICTION

3. Jurisdiction does not appear to be in issue. The request to form a Tribunal was made under Article 5.1. of the 2021 National-Anti-Doping Procedural Rules and Article 4.1.1 affords us jurisdiction.
4. The applicable rules are the 2021 UK Anti-Doping rules (“the 2021 ADR”). The RFL adopted the 2021 ADR (and their predecessor the 2019 ADR) in their entirety. Mr Harrison has expressly agreed to our jurisdiction and the RFL’s operating rules, including rules covering drug testing and misconduct at the point when he submitted his registration on 10 September 2020.

THE CHARGES AND THE ISSUES

5. Mr Harrison faces two charges, whose numberings do not reflect chronological order but the order of charge:
 - a. [REDACTED]
 - b. Charge 1, 28 April 2021, presence of a Prohibited Substance in a Sample (drostanolone). Drostanolone is and has long been on the 2021 World Anti-Doping Agency (“WADA”) list of Prohibited Substances. Whilst Mr Harrison had a Therapeutic Use Exemption for some medication, he had none for

drostanolone.

6. [REDACTED]
7. [REDACTED]
8. [REDACTED]
9. [REDACTED]

Charge 1, 28 April 2021: a Prohibited Substance in a Sample, ADR 2021 Articles 2.1 and 2.2.

10. On 28 April 2021 DCP collected blood and urine Samples Out-of-Competition from Mr Harrison at a training session of Barrow Raiders. His urine Sample was split into the customary A and B Samples. No issue arises from procedure, analysis or continuity.
11. The Adverse Analytical Finding (“AAF”) reflects the drostanolone found. It is an Anabolic Androgenic Steroid prohibited at all relevant times.
12. In its 11 June 2021 Notice Letter UKAD warned Mr Harrison he may have committed those ADRVs. He was Provisionally Suspended from that date.
13. On 3 July 2021 an email from his then legal representatives indicated his admission of the ADRVs but his desire to make submissions to the Tribunal on sanction.
14. On 20 July 2021 UKAD sent a Charge Letter. On 30 July 2021 his then legal representatives reiterated his admission and set out his explanation: he ingested drostanolone when retired from all forms of rugby.
15. That prompted UKAD to investigate drostanolone use whilst he was retired (i.e. pre 10 September 2020) leading to the opinion of Professor Cowan we set out above.

THE LEGAL FRAMEWORK

Charge 1 – 2021 ADR Article 2.1:

16. The sole issue is sanction.

17. [REDACTED]

18. [REDACTED]

THE FACTUAL BACKGROUND

19. Mr Harrison has had a distinguished career as a professional rugby league player. For some 13 years he played for Warrington, he has been an international playing for his country, and at the time with which we are concerned had come out of retirement and joined Barrow Raiders in Cumbria. He is now 35. He endured many injuries over his playing years, some of them serious, and has been candid about his resort to prescription drugs which he accepts he came to abuse.

20. [REDACTED]

21. [REDACTED]

22. [REDACTED]

23. [REDACTED]

24. [REDACTED]

25. [REDACTED]

THE EVIDENCE

26. [REDACTED]

27. [REDACTED]

28. [REDACTED]

29. [REDACTED]

- 30. [REDACTED]
- 31. [REDACTED]
- 32. [REDACTED]

Professor Emeritus David Cowan

33. Aptly described in other Panel decisions as the doyen of pharmaceutical toxicology, once he had full information, including Mr Harrison’s account that he administered drostanolone when retired from rugby, coming out of retirement on 10 September 2020, Professor Cowan reported on 24 May 2022 that the drostanolone in the Sample was not consistent with administration of it, even on multiple occasions, before 10 September 2020 but at a later date.

- 34. [REDACTED]
- 35. [REDACTED]
- 36. [REDACTED]
- 37. [REDACTED]
- 38. [REDACTED]
- 39. [REDACTED]
- 40. [REDACTED]

Submissions for UKAD

- 41. [REDACTED]
- 42. [REDACTED]
- 43. [REDACTED]

44. [REDACTED]
45. [REDACTED]
46. [REDACTED]
47. [REDACTED]
48. [REDACTED]
49. [REDACTED]
50. [REDACTED]
51. [REDACTED]
52. [REDACTED]
53. [REDACTED]
54. [REDACTED]

Charge 1

55. We need consider only Sanction. We are grateful to UKAD for its submission that the mandatory four-year period of Ineligibility, *per* 2021 ADR Article 10.2.1(a) applies and that there is no attempt to argue that a greater sanction applies.

56. The burden is on Mr Harrison to establish the ADRVs were not “*intentional*” as defined in 2021 ADR Article 10.2.3. He has neither supplied evidence nor advanced argument that he has discharged it. His explanation of when he ingested drostanolone – a letter of 30 July 2021 from his then legal representatives asserted that it was during the period of his retirement from rugby - is not supported by any evidence and particularly not by that of an expert. The only expert evidence before the Tribunal is that of Professor Cowan, whose opinion is that he is likely to have ingested drostanolone after he returned to rugby league and signed his registration form on 10 September 2020.

57. UKAD further submits that 2019 ADR Article 10.11.3 applies. Mr Harrison was suspended on 11 June 2021 when he received UKAD's Notice Letter and so far as is known has respected that. He is thus entitled to credit running from 11 June 2021.

58. We agree.

CONCLUSION

59. We find Charge 1 proved, and the period of four years Ineligibility is deemed to run from 11 June 2021, the date of his Provisional Suspension, and end at 23:59 on 10 June 2025.

60. Finally, we draw parties' attention to their right of appeal against this decision per ADR Article 13. In accordance with Article 13.5 of the Procedural Rules any party who wishes to appeal must lodge a Notice of Appeal with the NADP Secretariat within 21 days of receipt of this decision.

61. Pursuant to ADR Article 13.4.2(b), the Appeal should be filed to the National Anti-Doping Panel, located at Sport Resolutions, 1 Paternoster Lane, London, EC4M 7BQ (resolve@sportresolutions.com).



Dame Anne Rafferty DBE

Chairman on behalf of the Tribunal

London, UK

06 September 2022



1 Paternoster Lane, St Paul's London EC4M 7BQ resolve@sportresolutions.com 020 7036 1966

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