

## Issued Decision

# UK Anti-Doping and Joshua Hicks

### Disciplinary Proceedings under the Anti-Doping Rules of the Welsh Rugby Union

This is an Issued Decision made by UK Anti-Doping Limited ('UKAD') pursuant to the Anti-Doping Rules ('ADR') of the Welsh Rugby Union ('WRU'). It concerns Anti-Doping Rule Violations ('ADRVs') committed by Mr Joshua Hicks and records the applicable Consequences.

Capitalised terms used in this Decision shall have the meaning given to them in the ADR unless otherwise indicated.

### Background and Facts

1. The WRU is the national governing body for rugby union in Wales. UKAD is the National Anti-Doping Organisation ('NADO') for sport in the United Kingdom. The WRU has adopted, as its own ADR, the UK Anti-Doping Rules<sup>1</sup>, which are issued by UKAD and are subject to updates made by UKAD, as necessary and in accordance with the World Anti-Doping Code.
2. Mr Hicks is a 28-year-old rugby union player registered for the 2022/23 season with Pembroke RFC. At all relevant times, Mr Hicks was subject to the jurisdiction of the WRU and bound to comply with the ADR. Pursuant to ADR Article 7.2, UKAD has Results Management responsibility in respect of all players that are subject to the jurisdiction of the WRU.
3. On 8 October 2022, UKAD Doping Control Personnel collected a urine Sample from Mr Hicks In-Competition at a game between Pembroke RFC v Penclawdd at Crickmarren Field, Upper Lamphey Road, Pembroke, Pembrokeshire, SA71 4AY.
4. Assisted by the Doping Control Officer in attendance, Mr Hicks split the urine Sample into two separate bottles which were given reference numbers A1180542 (the 'A Sample') and B1180542 (the 'B Sample').
5. Both Samples were transported to the World Anti-Doping Agency ('WADA') accredited laboratory, the Drug Control Centre, King's College, London (the 'Laboratory'). The Laboratory analysed the A Sample in accordance with the procedures set out in WADA's International Standard for Laboratories. Analysis of the

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<sup>1</sup> Version 1.0, in effect as from 1 January 2021

A Sample returned Adverse Analytical Findings ('AAFs') for the following Prohibited Substances:

- i. Anastrozole;
  - ii. Tamoxifen Metabolite, 3-hydroxy-4-methoxytamoxifen;
  - iii. Drostanolone; and
  - iv. Drostanolone Metabolite, 3 $\alpha$ -hydroxy-2 $\alpha$ -methyl-5 $\alpha$ -androstan-17-one.
6. Anastrozole is listed under section S4.1 of the WADA 2022 Prohibited List as an Aromatase Inhibitor. It is a Specified Substance that is prohibited at all times.
  7. Tamoxifen is listed under section S4.2 of the WADA 2022 Prohibited List as an Anti-Estrogenic Substance [Anti-Estrogens and Selective Estrogen Receptor Modulators (SERMS)]. It is a Specified Substance that is prohibited at all times.
  8. Drostanolone is listed under section S1.1 of the WADA 2022 Prohibited List as an Anabolic Androgenic Steroid. It is a non-Specified Substance that is prohibited at all times.
  9. Mr Hicks does not have a Therapeutic Use Exemption ('TUE') for anastrozole, tamoxifen or drostanolone.
  10. On 16 December 2022, UKAD sent Mr Hicks a notification letter (the 'Notice'). The Notice confirmed the imposition of a Provisional Suspension and formally notified Mr Hicks, in accordance with ADR Article 7.8, that he may have committed ADRVs pursuant to ADR Article 2.1 (Presence of a Prohibited Substance or its Metabolites or Markers in an Athlete's Sample) and/or ADR Article 2.2 (Use or Attempted Use by an Athlete of a Prohibited Substance or a Prohibited Method).
  11. On 16 December 2022, Mr Hicks responded to the Notice and admitted taking the Prohibited Substances. He said he had done so before the season had begun, and did not realise what he had taken was on WADA's Prohibited List.
  12. On 03 March 2023, UKAD proceeded to issue Mr Hicks with a Charge Letter in accordance with ADR Article 7.11.2. The Charge Letter asserted the commission of ADRVs pursuant to Article 2.1 (Presence of a Prohibited Substance or its Metabolites or Markers in an Athlete's Sample) and/or Article 2.2 (Use of a Prohibited Substance) (the 'Charges').
  13. On 21 March 2023, Mr Hicks repeated his admission to the ADRVs, but disputed the Consequences.
  14. On 04 April 2023, the matter was referred to the National Anti-Doping Panel ('NADP'). On 17 May 2023, directions were made by the Chair appointed to the matter for the service of the parties' respective cases.

15. However, on 28 June 2023, Mr Hicks confirmed that he admitted the ADRVs asserted and acceded to the Consequences specified by UKAD, including a period of Ineligibility of four (4) years and no longer wished to pursue a hearing before the NADP. Consequently, the matter was remitted back to UKAD by the NADP so the case could be resolved without a hearing in accordance with ADR Article 7.12.

## **Admission and Consequences**

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16. ADR Article 2.1 provides that the following is an ADRV:

**2.1 Presence of a Prohibited Substance or its Metabolites or Markers in an Athlete's Sample, unless the Athlete establishes that the presence is consistent with a TUE granted in accordance with Article 4.**

17. ADR Article 2.2 provides that the following is an ADRV:

**2.2 Use or Attempted Use by an Athlete of a Prohibited Substance or a Prohibited Method, unless the Athlete establishes that the Use or Attempted Use is consistent with a TUE granted in accordance with Article 4.**

18. ADR Article 10.2 provides as follows:

**10.2 Imposition of a Period of Ineligibility for the Presence, Use or Attempted Use, or Possession of a Prohibited Substance and/or a Prohibited Method.**

*The period of Ineligibility for an Anti-Doping Rule Violation under Article 2.1, 2.2 or 2.6 that is the Athlete's or other Person's first anti-doping offence shall be as follows, subject to potential elimination, reduction or suspension pursuant to Article 10.5, 10.6 or 10.7:*

*10.2.1 Save where Article 10.2.4(a) applies, the period of Ineligibility shall be four (4) years where:*

*(a) The Anti-Doping Rule Violation does not involve a Specified Substance or a Specified Method, unless the Athlete or other Person can establish that the Anti-Doping Rule Violation was not intentional.*

*(b) [...]*

*10.2.2 If Article 10.2.1 does not apply, then (subject to Article 10.2.4(a)) the period of Ineligibility shall be two (2) years.*

19. In accordance with ADR Article 10.2.1(a), since one of Mr Hicks' ADRVs involves a non-Specified Substance, the period of Ineligibility to be imposed in relation to that ADRV shall be four (4) years, unless Mr Hicks can establish on the balance of probabilities that ADRV was not intentional (within the meaning of ADR Article 10.2.3).

20. On 16 December 2022, Mr Hicks accepted responsibility for the presence of the Prohibited Substances detected in his Sample and admitted the ADRVs (including the ADRV relating to a non-Specified Substance) with which he has been charged. Ultimately, Mr Hicks has not sought to establish that the ADRV for the non-Specified Substance was not 'intentional' (within the meaning of ADR Article 10.2.3). Accordingly, Mr Hicks is not entitled to a two (2) year period of Ineligibility pursuant to ADR Article 10.2.2 for that ADRV, or any reduction pursuant to ADR Article 10.5 (No Fault or Negligence) or ADR Article 10.6 (No Significant Fault or Negligence) thereafter.
21. In respect of the ADRVs for Specified Substances, the starting point is a period of Ineligibility of two (2) years, pursuant to ADR Article 10.2.2.
22. For the purposes of imposing a sanction, the ADRVs will be considered together as a single first violation, pursuant to ADR Article 10.9.4 which states as follows:

*10.9.4 Additional rules for certain potential multiple offences:*

- (a) For the purposes of imposing sanctions under Article 10.9, except as provided in Articles 10.9.4(b) and 10.9.4(c) an Anti-Doping Rule Violation will only be considered a second (or third, as applicable) Anti-Doping Rule Violation if UKAD can establish that the Athlete or other Person committed the additional Anti-Doping Rule Violation after they received notice, or after UKAD or its designee made a reasonable attempt to give notice, of the first (or the second, as applicable) Anti-Doping Rule Violation. Otherwise, the first and second Anti-Doping Rule Violations (or the second and third Anti-Doping Rule Violations as applicable) shall be considered as one single first Anti-Doping Rule Violation, and the sanction imposed shall be based on the Anti-Doping Rule Violation that carries the most severe sanction...*

23. Therefore, taking into account the period of Ineligibility applicable to the ADRV(s) involving the non-Specified Substance, namely drostanolone, the period of Ineligibility that applies to Mr Hicks is four (4) years.

### **Commencement of period of Ineligibility**

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24. ADR Article 10.13 requires that the period of Ineligibility starts on the date Ineligibility is accepted or otherwise imposed where there is no hearing.
25. However, ADR Article 10.13.2 allows for credit to be given against the total period of Ineligibility to be served where an Athlete has been provisionally suspended and has respected the terms of that Provisional Suspension.
26. Mr Hicks has been subject to a Provisional Suspension since the date of the Notice, i.e., since 16 December 2022 and as far as UKAD is aware he has respected the

terms of that Provisional Suspension. Therefore, affording Mr Hicks credit for the time he has spent provisionally suspended, his period of Ineligibility is deemed to have commenced on 16 December 2022 and will end at midnight on 15 December 2026.

### **Status during Ineligibility**

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27. During the period of Ineligibility, in accordance with ADR Article 10.14.1, Mr Hicks shall not be permitted to participate in any capacity (or assist any Athlete participating in any capacity) in a Competition, Event or other activity (other than authorised anti-doping education or rehabilitation programmes) organised, convened, authorised or recognised by:
- a) The WRU;
  - b) Any Signatory;
  - c) Any club or other body that is a member of, or affiliated to, or licensed by, a Signatory or a Signatory's member organisation;
  - d) Any professional league or any international or national-level Event organisation; or
  - e) Any elite or national-level sporting activity funded by a governmental agency.
28. Mr Hicks may return to train with a team or to use the facilities of a WRU club or a Signatory's member organisation during the last two months of his period of Ineligibility (i.e., from midnight on 15 October 2026) pursuant to ADR Article 10.14.4(b).

### **Summary**

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29. For the reasons given above, UKAD has issued this Decision in accordance with ADR Article 7.12.2, and records that:
- a) Mr Hicks has committed ADRVs pursuant to ADR Articles 2.1 and 2.2;
  - b) In accordance with ADR Article 10.9.4(a) the ADRVs are considered as one single ADRV for the purposes of imposing a sanction;
  - c) This constitutes Mr Hicks' first ADRV and in accordance with ADR Article 10.2.1(a) a four (4) year period of Ineligibility is imposed;
  - d) Acknowledging Mr Hicks' Provisional Suspension, the period of Ineligibility is deemed to have commenced on 16 December 2022 and will expire at midnight on 15 December 2026; and
  - e) Mr Hicks status during the period of Ineligibility shall be as detailed in ADR Article 10.14.

30. Mr Hicks, the WRU, World Rugby and WADA have a right to appeal against this Decision or any part of it in accordance with ADR Article 13.4.
31. This Decision will be publicly announced via UKAD's website in accordance with ADR Article 8.5.3 and ADR Article 10.15.

**25 August 2023**