

Issued Decision

UK Anti-Doping and Harry Tyson-Wilson

Disciplinary Proceedings under the Anti-Doping Rules of the Rugby Football League

This is an Issued Decision made by UK Anti-Doping Limited ('UKAD') pursuant to the Anti-Doping Rules ('ADR') of the Rugby Football League ('RFL'). It concerns an Anti-Doping Rule Violation ('ADRV') committed by Mr Tyson-Wilson contrary to the ADR.

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

Background and Facts

1. The RFL is the national governing body for rugby league in England. UKAD is the National Anti-Doping Organisation ('NADO') for sport in the United Kingdom. The RFL has adopted the UK Anti-Doping Rules as its own ADR. At the material time, the governing ADR were the UK Anti-Doping Rules (Version 1.0, in effect from 1 January 2015) ('2015 ADR'). Pursuant to Article 1.6.2(d) of the UK Anti-Doping Rules (Version 1.0 in effect as from 1 January 2021) ('2021 ADR') the procedural aspects of this case will be governed by the 2021 ADR. The 2015 ADR will still apply as the substantive anti-doping rules in this case unless a *lex mitior* in the 2021 ADR in relation to Consequences applies.
2. Mr Tyson-Wilson is a 26-year-old rugby league player, who was registered for West Hull ARLFC for the 2019 season. Mr Tyson-Wilson was subject to the jurisdiction of the RFL and bound to comply with the 2015 ADR. Pursuant to 2021 ADR Article 7.2, UKAD has Results Management responsibility in respect of all Athletes that are subject to the jurisdiction of the RFL.
3. On 18 May 2022, UKAD received information from the police concerning the production, manufacture, and supply of Prohibited Substances by and to a number of individuals. In light of this information, UKAD commenced an investigation and was subsequently able to identify Mr Tyson-Wilson as a potential purchaser of Prohibited Substances.
4. According to the evidence obtained, Mr Tyson-Wilson made a purchase of dianabol (otherwise known as 'Dbol'), a variant of metandienone, on 6 March 2019.

Metandienone is listed under S1(1) of the 2019 WADA Prohibited List as an Anabolic Androgenic Steroid and is a non-Specified Substance which is prohibited at all times.

5. On 7 March 2022, Mr Tyson-Wilson attended an interview with UKAD, during which he admitted to purchasing metandienone online in March 2019 and paying for it to be delivered to his home address. He further accepted being in physical Possession of the substance after its arrival and that he knew it was prohibited whilst being in Possession of it. Mr Tyson-Wilson asserted that at the time he ordered the dianabol, he was not aware that it was a Prohibited Substance. Mr Tyson-Wilson accepted that he intended to use the substance once it arrived, however, asserted that he disposed of it prior to use due to concerns he had surrounding its appearance, and after he had conducted further research into the nature of dianabol.
6. Following the interview, Mr Tyson-Wilson provided UKAD with a screenshot of the banking transaction as proof of the monetary transfer he made when purchasing the Prohibited Substance.
7. On 12 April 2023, UKAD sent Mr Tyson-Wilson a notification letter (the 'Notice'). The Notice confirmed the imposition of a Provisional Suspension and formally notified Mr Tyson-Wilson, in accordance with 2021 ADR Article 7.8, that he may have committed an ADRV pursuant to 2015 ADR Article 2.2 (Use or Attempted Use by an Athlete of a Prohibited Substance or Prohibited Method) and/or 2015 ADR Article 2.6 (Possession of a Prohibited Substance and/or a Prohibited Method).
8. On 23 April 2023, Mr Tyson-Wilson acknowledged receipt of the Notice and admitted purchasing dianabol online in March 2019 but denied ever using the Prohibited Substance.
9. On 18 May 2023, UKAD proceeded to issue Mr Tyson-Wilson with a Charge Letter in accordance with 2021 ADR Article 7.11.2. The Charge Letter asserted the commission of ADRVs pursuant to 2015 Article 2.2 (Use or Attempted Use by an Athlete of a Prohibited Substance or Prohibited Method) and/or 2015 ADR Article 2.6 (Possession of a Prohibited Substance and/or a Prohibited Method).

Admission and Consequences

10. On 7 June 2023, Mr Tyson-Wilson responded to the Charge Letter. He admitted both ADRVs and confirmed that he had purchased dianabol with the intention of using it.

Attempted Use ADRV

11. 2015 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.

12. **'Use'** is defined in the 2015 ADR as:

The utilisation, application, ingestion, injection or consumption by any means whatsoever of any Prohibited Substance or Prohibited Method.

13. **'Attempt'** is defined in the 2015 ADR as:

Purposely engaging in conduct that constitutes a substantial step in a course of conduct planned to culminate in the commission of an Anti-Doping Rule Violation. Provided, however, there shall be no Anti-Doping Rule Violation based solely on an Attempt to commit a violation if the Athlete or other Person renounces the Attempt prior to it being discovered by a third party not involved in the Attempt.

14. Mr Tyson-Wilson admitted to ordering and paying for the dianabol to be delivered to his home address for the purpose of using it personally.

Possession ADRV

15. 2015 ADR Article 2.6 provides that the following is an ADRV:

2.6. Possession of a Prohibited Substance and/or a Prohibited Method

2.6.1 [...] Possession by an Athlete Out-of-Competition of any Prohibited Substance [...] which is prohibited Out-of-Competition unless the Athlete establishes that the Possession is consistent with a Therapeutic Use Exemption ('TUE') granted in accordance with Article 4 or other acceptable justification.

16. **'Possession'** is defined in the 2015 ADR as:

The actual, physical Possession, or the constructive Possession (which shall be found only if the Person has exclusive control or intends to exercise control over the Prohibited Substance or Prohibited Method or the premises in which a Prohibited Substance or Prohibited Method exists); provided, however, that if the Person does not have exclusive control over the Prohibited Substance or Prohibited Method or the premises in which a Prohibited Substance or Prohibited Method exists, constructive Possession shall only be found if the Person knew about the presence of the Prohibited Substance or Prohibited Method and intended to exercise control over it. [...] Notwithstanding anything to the contrary in this definition, the purchase (including by any electronic or other means) of a Prohibited Substance or Prohibited Method constitutes Possession by the Person who makes the purchase.

17. Mr Tyson-Wilson admits to having had actual, physical Possession of the Prohibited Substance contained in the package that was delivered to his home address. As such, Mr Tyson-Wilson's conduct amounts to an ADRV of Possession of a Prohibited Substance for the purposes of 2015 ADR Article 2.6.

18. 2015 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 suspensions pursuant to Article 10.4, 10.5 or 10.6:

10.2.1 The period of Ineligibility shall be four years where:

a) The Anti-Doping Rule Violation does not involve a Specified Substance or 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, the period of Ineligibility shall be two years.

19. In accordance with 2015 ADR Article 10.2.1(a), since this matter concerns a non-Specified Substance, the period of Ineligibility to be imposed shall be four (4) years, unless Mr Tyson-Wilson can establish on the balance of probabilities, that the ADRVs were not intentional.

20. With regard to the meaning of 'intentional', 2015 ADR Article 10.2.3 states¹ as follows:

As used in Articles 10.2 and 10.3 the term "intentional" is meant to identify those Athletes or Persons who cheat. The term, therefore, requires that the Athlete or other Person engaged in conduct which he or she knew constituted an Anti-Doping Rule Violation or knew that there was a significant risk that the conduct might constitute or result in an Anti-Doping Rule Violation and they manifestly disregarded that risk [...]

21. Within his responses to UKAD, Mr Tyson-Wilson has accepted responsibility for purchasing the Prohibited Substance and admits the ADRVs with which he has been charged. At no stage has Mr Tyson-Wilson sought to establish that his ADRVs were not intentional (within the meaning of 2015 ADR Article 10.2.3). Accordingly, Mr Tyson-Wilson is not entitled to a two (2) year period of Ineligibility pursuant to 2015 ADR Article 10.2.2 or any reduction pursuant to 2015 ADR Article 10.4 (No Fault or Negligence) or 2015 ADR Article 10.5 (No Significant Fault or Negligence) thereafter.

22. For the purposes of imposing a sanction, the two ADRVs will be considered together as a single first violation, pursuant to 2015 ADR Article 10.7.4 which states as follows:

¹ The definition of "intentional" in the 2015 ADR has been superseded by that now provided in the 2021 ADR.

10.7.4 Additional rules for certain potential multiple offences:

(a) For the purposes of imposing sanctions under Article 10.7, an Anti-Doping Rule Violation will only be considered a second Anti-Doping Rule Violation if UKAD can establish that the Athlete or other Person committed the additional Anti-Doping Rule Violation after he/she received notice, or after UKAD or its designee made a reasonable attempt to give notice, of the first 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. The applicable period of Ineligibility is therefore four (4) years.

Application of 2021 ADR Article 10.8.1

24. On 1 January 2021, the 2021 ADR came into effect, incorporating the amendments made to the 2021 World Anti-Doping Code. 2021 ADR Article 1.6.2(d) provides that any case that is pending as at 1 January 2021 based on an ADRV that allegedly occurred prior to that date (as is the case in this matter) will be governed by the substantive anti-doping rules in effect at the time the alleged ADRV occurred (i.e. the 2015 ADR), unless there is a *lex mitior* in the 2021 ADR in relation to Consequences².

25. *Lex mitior* applies in respect of the applicable Consequences in this case because the 2021 ADR are more favourable to Mr Tyson-Wilson:

- a) Like the 2015 ADR, the 2021 ADR stipulate that Presence and Use are subject to periods of Ineligibility of a minimum of four (4) years up to lifetime Ineligibility.
- b) However, unlike the 2015 ADR, 2021 ADR Article 10.8.1 allows for an automatic one (1) year reduction in the above period of Ineligibility based on early admission of the ADRV and acceptance of the sanction:

10.8.1 A one (1) year reduction for certain Anti-Doping Rule Violations based on early admission and acceptance of sanction:

Where UKAD sends an Athlete or other Person a Charge Letter for an Anti-Doping Rule Violation that carries an asserted period of Ineligibility of four (4) or more years (including any period of Ineligibility asserted under Article 10.4), if the Athlete or other Person admits the violation and accepts the asserted period of Ineligibility no later than twenty (20) days after receiving the Charge Letter, they shall receive a one (1) year

² As explained by the CAS Panel in IAAF v QAF & Balla, CAS 2018/A/5989, paragraph 152: ‘the principle of *lex mitior* enables retroactive application of provisions in so far as “penalties” or “sanctions” are concerned, if the new law is more favourable than the provisions applicable under the principle *tempus regit actum*. The underlying idea is that it makes little sense to sanction the party concerned according to out-dated provisions, if the unanimous view now holds that the act in question carries a milder sanction’.

reduction in the period of Ineligibility asserted by UKAD. Where the Athlete or other Person receives the one (1) year reduction in the asserted period of Ineligibility under this Article 10.8.1, no further reduction in the asserted period of Ineligibility shall be allowed under any other Article.

- c) Mr Tyson-Wilson admitted the ADRVs and accepted the asserted period of Ineligibility of four (4) years on 7 June 2023 (having been sent the Charge Letter on 18 May 2023). Accordingly, 2021 ADR Article 10.8.1 applies and Mr Tyson-Wilson shall receive a one (1) year reduction to the period of Ineligibility of four (4) years. The period of Ineligibility to be imposed is therefore three (3) years.

Commencement of period of Ineligibility

26. 2015 ADR Article 10.11 requires that the period of Ineligibility starts on the date Ineligibility is accepted or otherwise imposed where there is no hearing.
27. However, 2015 ADR Article 10.11.3 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.
28. Mr Tyson-Wilson has been subject to a Provisional Suspension since the date of the Notice, i.e., since 12 April 2023 and as far as UKAD is aware he has respected the terms of that Provisional Suspension. Therefore, affording Mr Tyson-Wilson credit for the time he has spent provisionally suspended, his period of Ineligibility is deemed to have commenced on 12 April 2023 and will end at midnight on 11 April 2026.

Status during period of Ineligibility

29. During the period of Ineligibility, in accordance with 2015 ADR Article 10.12.1, Mr Tyson-Wilson 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 RFL;
 - 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.

30. Mr Tyson-Wilson may return to train with a team or to use the facilities of a RFL club or a Signatory's member organisation during the last two months of his period of Ineligibility (i.e., from midnight on 11 February 2026) pursuant to 2015 ADR Article 10.12.4(b).

Summary

31. For the reasons given above, UKAD has issued this Decision in accordance with 2021 ADR Article 7.12.2, and records that:

- a) Mr Tyson-Wilson has committed an ADRV pursuant to 2015 ADR Articles 2.2 and 2.6;
- b) In accordance with 2015 ADR Article 10.7.4(a) the ADRVs are considered as one single ADRV for the purposes of imposing a sanction;
- c) The applicable period of Ineligibility is four (4) years pursuant to 2015/2021 ADR Article 10.3.3, but due to a *lex mitior* under the 2021 ADR, Mr Tyson Wilson is entitled to receive an automatic one (1) year reduction due to an early admission of the ADRV and acceptance of sanction (2021 ADR Articles 1.6.2(d) and 10.8.1), and therefore a period of three (3) years is imposed;
- d) Acknowledging Mr Tyson-Wilson's Provisional Suspension, the period of Ineligibility is deemed to have commenced on 12 April 2023 and will expire at midnight on 11 April 2026; and
- e) Mr Tyson-Wilson's status during the period of Ineligibility shall be as detailed in 2015 ADR Article 10.12.

32. Mr Tyson-Wilson, the RFL, the IRL, and WADA have a right to appeal against this Decision or any part of it in accordance with 2021 ADR Article 13.4.

33. This Decision will be publicly announced via UKAD's website in accordance with 2021 ADR Article 8.5.3 and 2021 ADR Article 10.15.

26 October 2023