

Issued Decision

UK Anti-Doping and Ross Bevan

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 Rugby Football League ('RFL') Anti-Doping Rules (the 'ADR'). It concerns an Anti-Doping Rule Violation committed by Mr Ross Bevan 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 governing body for the sport of Rugby League in the United Kingdom. UKAD is the National Anti-Doping Organisation ('NADO') for the United Kingdom. The RFL has adopted the UK Anti-Doping Rules which are constituted as the ADR.
2. By a decision of the National Anti-Doping Panel ('NADP') dated 27 May 2015 ('the Decision'), Mr Bevan was issued with a period of Ineligibility of two years from 26 February 2015 until 25 February 2017 for the commission of an Anti-Doping Rule Violation pursuant to ADR Article 2.1, on the basis of the Presence of the Prohibited Substances drostanolone and a metabolite of drostanolone in a Sample provided by Mr Bevan, Out-of-Competition, on 9 February 2015.
3. ADR Article 10.12.3 provides that an Athlete subject to a period of Ineligibility shall remain subject to Testing:

10.12.3 An Athlete who is Ineligible shall remain subject to Testing and must provide whereabouts information (as applicable) for that purpose during the period of Ineligibility.
4. By letter dated 25 August 2015 UKAD confirmed to Mr Bevan that he remained subject to Testing throughout the period of Ineligibility. The letter also confirmed that UKAD was treating the address to which that letter had been sent as his usual residential address and the address at which he would be available for Testing.
5. The letter informed him about his options for removing himself from Testing (and the jurisdiction of the ADR) by way of retirement and provided him with a form to complete and return to UKAD to confirm if he wished to do so.
6. Mr Bevan did not return any form to confirm either that his usual residential address was a different address nor to confirm that he wished to retire.
7. Pursuant to ADR Article 10.12.3, Mr Bevan therefore remained subject to Testing for the duration of the period of Ineligibility and was subject to and bound to comply with the ADR at all material times.
8. At 21:00 on Wednesday 28 September 2016, a UKAD Doping Control Officer ('DCO') attended Mr Bevan's home address in order to collect a Sample from him pursuant to ADR Article 10.12.3.

9. After attempting to contact anyone inside the address at 21:00, 21:15 and at 21:27 without success, the DCO noticed the arrival of a vehicle to the rear of the address and observed a light being turned on inside the property.
10. The DCO therefore knocked on the front door again and this time it was answered by Mr Bevan. The DCO confirmed his identity and verbally notified Mr Bevan of his requirement to provide a Sample pursuant to the ADR.
11. Mr Bevan stated that he was unable to provide a Sample. He informed the DCO that his young child (who was in the care of Mr Bevan's partner and also present at the address along with Mr Bevan) was unwell. Mr Bevan informed the DCO that he needed to take his partner and his sick child to his mother's house.
12. Mr Bevan asked the DCO to return the following day when he would be able to provide a Sample. The DCO confirmed that he was unable to do so. Mr Bevan then refused to provide a Sample. He also refused to sign a Doping Control Form to confirm his reasons for not providing a Sample.
13. By letter dated 14 October 2016, UKAD issued Mr Bevan with a Notice of Charge ('the Charge') for a violation of ADR Article 2.3, specifically for refusing, without compelling justification, to submit to Sample collection after notification as authorised in the ADR on 28 September 2016.
14. On 25 October 2016, Mr Bevan provided a response to the Charge by e-mail which enclosed his written response to the Charge dated 24 October 2016. In that response Mr Bevan confirmed that he denied the Charge against him.
15. On the basis of Mr Bevan's response to the Charge, UKAD referred the matter to the National Anti-Doping Panel ('NADP') for determination on 28 October 2016.
16. A Directions Hearing was convened on 8 November 2016 to set procedural Directions for determination of the Charge. Mr Bevan was represented at the Hearing by Mr Robert Leighton Davies QC.
17. During the Hearing, Mr Davies QC confirmed that Mr Bevan no longer wished to deny the Charge. Mr Davies QC also confirmed that Mr Bevan admitted the Charge and confirmed that he did not seek to rely on either ADR Article 10.4 or ADR Article 10.5.2 in order to reduce the applicable period of Ineligibility.
18. However, Mr Davies QC confirmed that Mr Bevan would seek a reduction in the period of Ineligibility pursuant to ADR Article 10.6.3.

Admission and Consequences

19. ADR Article 2.3 provides that the following shall constitute an Anti-Doping Rule Violation:
 - 2.3 Evading Sample collection, or without compelling justification, refusing or failing to submit to Sample collection after notification of Testing as authorised in these Rules or other applicable anti-doping rules.

(emphasis added)

20. On 8 November 2016, during the Directions Hearing before the NADP, Mr Bevan confirmed that he admitted the Charge that he had committed a violation pursuant to ADR Article 2.3 through his representative, Mr Davies QC.

21. ADR Article 7.7.4 provides:

7.7.4 In the event that UKAD withdraws the Notice of Charge, or the Athlete or other Person admits the Anti-Doping Rule Violation(s) charged and accedes to the Consequences specified by UKAD (or is deemed to have done so in accordance with Article 7.7.1), neither B Sample analysis nor a hearing is required. Instead, UKAD shall promptly issue a reasoned decision confirming the commission of the Anti-Doping Rule Violation(s) and the imposition of the specified Consequences, shall send notice of the decision to the Athlete or other Person and to each Interested Party, and shall Publicly Disclose the decision in accordance with Article 8.4.

22. UKAD therefore issues this Decision on the basis of the admission made by Mr Bevan and pursuant to ADR Article 7.7.4 above.

23. ADR Article 10.3 provides for the Consequences to be imposed for an Anti-Doping Rule Violation pursuant to ADR Article 2.3:

10.3 **Imposition of a Period of Ineligibility for Other Anti-Doping Violations**

The period of Ineligibility for an Anti-Doping Rule Violation under Article 2.3 that is the Athlete's or other Person's first anti-doping offence shall be four years unless, in a case of failing to submit to Sample collection, the Athlete can establish that the commission of the Anti-Doping Rule Violation was not intentional (as defined in Article 10.2.3), in which case the period of ineligibility shall be two years.

(emphasis added)

24. However, this constitutes Mr Bevan's second Anti-Doping Rule Violation. In such circumstances the period of Ineligibility to be imposed is set out in ADR Article 10.7.1, which provides:

10.7 **Multiple Violations**

10.7.1 For an Athlete's or other Person's second Anti-Doping Rule Violation, the period of Ineligibility shall be the greater of:

- (a) six months;
- (b) one-half of the period of Ineligibility imposed for the first Anti-Doping Rule Violation without taking into account any reduction under Article 10.6; or
- (c) twice the period of Ineligibility otherwise applicable to the second Anti-Doping Rule Violation treated as if it were a first violation, without taking into account any reduction under Article 10.6.

The period of Ineligibility established above may then be further reduced by the application of ADR Article 10.6.

(emphasis added)

25. Pursuant to ADR Article 10.7.1(c), the period of Ineligibility prescribed by ADR Article 10.3.1 shall therefore be doubled such that the period of Ineligibility to be imposed on Mr Bevan's in respect of his violation of ADR Article 2.3 on 28 September 2016 is a period of Ineligibility of 8 years ('the Consequences').
26. However, ADR Article 10.7.1 prescribes that the period of Ineligibility established in accordance with the provisions thereof may be further reduced by application of ADR Article 10.6.
27. ADR Article 10.6.3 states:
 - 10.6.3 Prompt Admission of an Anti-Doping Rule Violation after being Confronted with a Violation Sanctionable under Article 10.2.1 or Article 10.3.1

An Athlete or other Person potentially subject to a four-year sanction under Article 10.2.1 or 10.3.1 (for evading or refusing Sample Collection or Tampering with Sample Collection), may receive a reduction in the period of Ineligibility down to a minimum of two years, depending on the seriousness of the violation and the Athlete's or other Person's degree of Fault by promptly admitting the asserted Anti-Doping Rule Violation after being confronted with it, upon the approval and at the discretion of WADA and UKAD.
28. UKAD accepts that the admission made on behalf of Mr Bevan during the Directions Hearing on 8 November 2016 occurred after he was confronted with an Anti-Doping Rule Violation pursuant to ADR Article 2.3 (by way of a Notice of Charge dated 14 October 2016), which is sanctionable according to ADR Article 10.3.1.
29. Although there was a period of over three weeks between Mr Bevan's receipt of the Notice of Charge and his admission, Mr Bevan took legal advice during that period. His admission was made at the earliest available opportunity after receiving that advice and before formal procedural Directions had been issued for the determination of the matter. On that basis, UKAD considers that Mr Bevan's admission to the Charge made in the Directions Hearing on 8 November 2016 to be a prompt admission for the purposes of ADR Article 10.6.3.
30. Mr Bevan may therefore receive a reduction in the period of Ineligibility. The length of that reduction is contingent on the seriousness of the Anti-Doping Rule Violation and his degree of Fault, which is to be determined at the discretion, and subject to the approval, of both WADA and UKAD (as expressly provided in ADR Article 10.6.3).
31. UKAD provides further detail on its assessment of these factors below:
 - A. Seriousness of the Anti-Doping Rule Violation
32. UKAD has considered submissions received on behalf of Mr Bevan that, in summary, request that Mr Bevan be subject to the "minimum penalty possible".
33. In considering the seriousness of the violation, UKAD notes that this is Mr Bevan's second Anti-Doping Rule Violation. It was committed whilst he was serving a period of Ineligibility for the Presence of the Prohibited Substances drostanolone and a metabolite thereof in a Sample provided by him, Out-of-Competition, on 9 February 2015. Mr Bevan also accepts that he remained subject to Testing during that period of Ineligibility.
34. ADR Article 1.3.1 provides that the following comprise an Athlete's core responsibilities:

- 1.3.1 It is the personal responsibility of each Athlete:
- (a) to acquaint him/herself, and to ensure that each Person (including medical personnel) from whom he/she takes advice is acquainted, with all of the requirements of these Rules [...];
 - (b) to comply with these rules in all respects;
 - (f) to make him/herself available for Testing at all time upon request, whether In-Competition or Out-of-Competition;
35. There is a clear policy justification for Athletes serving a period of Ineligibility to remain subject to Testing. Athletes are restricted from participating in any capacity in a Competition or Event or other activity (including training) linked to organised, Code-compliant sport during that time. UKAD believes that those prohibitions on participation mean that during that time the inclination for an Athlete to take a doping decision (and therefore the risk of doping) is high.
36. Athletes are under a duty to submit to Testing at all times when requested to do so. UKAD says that the very nature of a period of Ineligibility imposed for the Presence of a Prohibited Substance adds considerable weight to the Athlete's core responsibility to make him/herself available for Testing during that time.
37. UKAD says that in acknowledging that he was subject to Testing during the period of Ineligibility, but by refusing to provide a Sample, Mr Bevan has committed a significantly serious breach of his core responsibilities as outlined above.
38. Additionally, Mr Bevan accepts that he has committed the violation intentionally (as that term is used generally). UKAD says that any violation committed in that manner is a very serious violation.
39. Furthermore, Article 10.3.1 of the 2015 Code (as reflected in ADR Article 10.3.1) prescribes that the mandatory period of Ineligibility for a refusal (under ADR Article 2.3) shall be four years without any opportunity for reduction based on whether the violation was "intentional" (as that term is defined in the Code). UKAD says that this is because the Code considers a refusal of itself to be a serious violation, which warrants the greatest possible sanction.
40. On the basis of the above, UKAD and WADA consider Mr Bevan's refusal to provide a Sample to be a serious violation and agree that Mr Bevan should therefore not be afforded any reduction in the period of Ineligibility pursuant to ADR Article 10.6.3 on account of the seriousness of his violation.

B. Fault

41. Fault is defined in the ADR as follows:

Fault is any breach of duty or any lack of care appropriate to a particular situation. Factors to be taken into consideration in assessing an Athlete or other Person's degree of Fault include, for example, the Athlete's or other Person's experience, whether the Athlete or other Person is a Minor, special considerations such as impairment, the degree of risk that should have been perceived by the Athlete and the level of care and investigation exercised by the Athlete in relation to what should have been the perceived level of risk. In assessing the Athlete's or other Person's degree of Fault, the circumstances considered must be specific and relevant to explain the Athlete's or other Person's departure from the expected standard of behaviour. Thus, for example, the fact that an Athlete would lose the opportunity to earn large sums of money during a period of Ineligibility, or the fact that the Athlete only

has a short time left in his or her career, or the timing of the sporting calendar, would not be relevant factors to be considered in reducing the period of Ineligibility under Article 10.5.1 or 10.5.2.

(emphasis added)

42. UKAD considers that Mr Bevan is entirely at Fault for his refusal to provide a Sample. In relation to his degree of Fault, UKAD says that Mr Bevan possessed the necessary experience of anti-doping procedures to properly perceive the risk that he was taking in refusing to provide a Sample. The implications for doing so were made clear to Mr Bevan by the DCO at the time and Mr Bevan exercised little care or caution in refusing to provide a Sample.
43. Whilst there is no impairment referred to, Mr Davies QC submits that Mr Bevan was subject to a *“deeply worrying and anxiety stricken predicament”* regarding the health of his young daughter.
44. UKAD does not accept that Mr Bevan’s predicament was sufficient to demonstrate any impairment (and no evidence has been provided to the effect) that diminished the level of responsibility and care that Mr Bevan should have exercised in this situation.
45. It is accepted that Mr Bevan’s partner was also present at the time the DCO arrived and requested that Mr Bevan provide a Sample. Despite any worry or anxiety experienced by Mr Bevan at that time, UKAD’s position is that arrangements could have been made for Mr Bevan’s partner to tend to his daughter and ensure that his daughter was cared for whilst Mr Bevan provided a Sample.
46. Mr Davies QC concedes that Mr Bevan’s predicament and his conduct in his particular circumstances fails to provide sufficient grounds to satisfy the definitions of No Fault or Negligence and No Significant Fault or Negligence contained in the ADR.
47. UKAD agrees that Mr Bevan falls very far short of having acted with No Fault or No Significant Fault in these circumstances.
48. Furthermore, UKAD notes that the Comment to Article 10.4 of the Code is clear that the provisions of No Fault or Negligence and No Significant Fault or Negligence *“will only apply in exceptional circumstances”*. UKAD does not accept Mr Bevan’s circumstances as exceptional.
49. However, UKAD notes that the determination of any reduction to be afforded to Mr Bevan pursuant to ADR Article 10.6.3 is not limited by those definitions. Instead, regard must be had to his level of Fault as that term is defined in the ADR, which includes consideration of his *“breach of duty or any lack of care appropriate to a particular situation”* and that *“the circumstances considered must be specific and relevant to explain the Athlete’s or other Person’s departure from the expected standard of behaviour”*.
50. It is submitted on behalf of Mr Bevan that *“the circumstances from a humane, objective and sympathetic standpoint of an assessment of his level of fault render his refusal to co-operate as in large measure understandably explicable and excusable”*. With respect, UKAD does not agree that Mr Bevan’s refusal to provide a Sample is excusable.

51. However, in circumstances where Mr Bevan and his partner were "*inexperienced and relatively young first-time parents to a sick baby daughter*" and who were in what they believed to be a "*deeply worrying and anxiety-stricken predicament*", UKAD acknowledges that Mr Bevan's refusal to provide a Sample is explicable.
52. In the opinion of both WADA and UKAD, the specific circumstances of Mr Bevan's refusal to submit to Sample collection reduce his degree of Fault. Indeed, in the particular situation, UKAD and WADA consider that it is reasonable that Mr Bevan would have been concerned about ensuring that his sick, young child was properly cared for and that it is reasonable that the state of mind of a young, inexperienced parent could have explained his decision not to submit to Sample collection.
53. WADA and UKAD also believe that regard can be given to the length of the sanction that will eventually be imposed on Mr Bevan due to the fact that this is his second Anti-Doping Rule Violation, in considering the potential reduction to be awarded pursuant to ADR Article 10.6.3.
54. In Mr Bevan's particular circumstances, WADA and UKAD consider that a reduction granted for a prompt admission may be somewhat more generous, especially in light of the specific circumstances of this case as they relate to Mr Bevan's degree of Fault. Whilst both WADA and UKAD do not consider that reductions should be granted too lightly to those who have committed multiple violations, both WADA and UKAD consider that, where warranted by the specific circumstances of a case, the reduction granted should be sufficiently meaningful to provide an incentive for Athletes and other Persons to admit Anti-Doping Rule Violations in the first place.
55. On the basis of the above, WADA and UKAD agree that Mr Bevan should be afforded a reduction in the period of Ineligibility of **nine months**, based on his degree of Fault in the specific and relevant circumstances that led to Mr Bevan's refusal to provide a Sample, on 28 September 2016.
56. The period of Ineligibility to be imposed pursuant to ADR Article 10.7.1(c) (8 years) is therefore reduced by nine months to a period of Ineligibility of 7 years and 3 months on account of the prompt admission made by Mr Bevan pursuant to ADR Article 10.6.3.
57. UKAD therefore records that a period of Ineligibility of 7 years and 3 months is hereby imposed pursuant to ADR Article 10.7.1 and this Decision is issued pursuant to ADR Article 7.7.4.

Disqualification of Results and Ineligibility

58. ADR Article 10.11.2 states:

10.11.2 Timely Admission:

Where the Athlete or other Person promptly (which means, in any event, before he/she competes again) admits the Anti-Doping Rule Violation after being confronted with it by UKAD, the period of Ineligibility may start as early as the date of Sample collection or the date on which another Anti-Doping Rule Violation last occurred. In each case, however, where this Article is applied, the Athlete or other Person shall serve at least one-half of the period of Ineligibility going forward from the date the Athlete or other Person accepted the imposition of a sanction, the date of a hearing decision imposing a sanction, or the date the sanction is otherwise imposed. This Article shall not apply where the period of Ineligibility has already been reduced under Article 10.6.3.

59. Mr Bevan has made a timely admission for the purposes of ADR Article 10.11.2. However, the period of Ineligibility has already been reduced pursuant to ADR Article 10.6.3 such that ADR Article 10.11.2 is excluded from application.

60. ADR Article 10.11.3 provides the following:

10.11.3 Credit for Provisional Suspension or Period of Ineligibility Served

- (a) Any period of Provisional Suspension (whether imposed or voluntarily accepted) that has been respected by the Athlete or other Person shall be credited against the total period of Ineligibility to be served. If a period of Ineligibility is served pursuant to a decision that is subsequently appealed, then the Athlete or other Person shall receive credit for such period of Ineligibility served against any period of Ineligibility which may ultimately be imposed on appeal. To get credit for any period of voluntary Provisional Suspension, however, the Athlete or other Person must have given written notice at the beginning of such period to UKAD (and UKAD shall copy that notice to each Interested Party) and have respected the Provisional Suspension.

(emphasis added)

61. Mr Bevan has been subject to a Provisional Suspension since the date of the Charge (that Provisional Suspension running concurrently with the Period of Ineligibility imposed upon him by the NADP in the Decision).

62. Pursuant to ADR Article 10.11.3, the period of Ineligibility to be imposed on Mr Bevan is therefore deemed to have commenced on 14 October 2016 and will expire at midnight on 14 January 2024.

63. During the period of Ineligibility, in accordance with ADR Article 10.12.1, Mr Bevan shall not be permitted to participate 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:

- the RFL or by any body that is a member of, or affiliated to, or licensed by the RFL;
- any Signatory (as that term is defined in the ADR);
- any club or other body that is a member of, or affiliated to, or licensed by, a Signatory or a Signatory's member organisation;
- any professional league or any international- or national-level Event organisation; or
- any elite or national-level sporting activity funded by a government agency

64. Mr Bevan may return to train with a team or to use the facilities of a club or other member organisation of the RFL or a Signatory's member organisation during the last two months of his period of Ineligibility (i.e. from midnight on 14 November 2023) pursuant to ADR Article 10.12.4(b).

65. Mr Bevan, the RFL, the RLIF and WADA each have a right of appeal against this Decision or any part of it in accordance with ADR Article 13.4.

66. The disposition of these proceedings on the terms set out above will be publicly announced via UKAD's website media release after any appeal period has expired and no appeal has been filed, or any appeal has been finalised.

Summary

67. For the reasons given above, UKAD has issued this Decision, which records that:

- Mr Bevan has committed an Anti-Doping Rule Violation pursuant to ADR Article 2.3, specifically without compelling justification refusing to submit to Sample collection on 28 September 2016;
- this constitutes Mr Bevan 's second Anti-Doping Rule Violation;
- UKAD and WADA have agreed that Mr Bevan has made a prompt admission for the purposes of ADR Article 10.6.3;
- UKAD and WADA are also agreed that Mr Bevan should be afforded a reduction in the period of Ineligibility of **nine months** pursuant to ADR Article 10.6.3;
- a period of Ineligibility of 7 years and 3 months shall therefore be the Consequences imposed pursuant to ADR Article 10.7.1;
- pursuant to ADR Article 10.11.3 the period of Ineligibility is deemed to have commenced from 14 October 2016 and will end at midnight on 14 January 2024; and
- Mr Bevan's status during the period of Ineligibility shall be as detailed in ADR Article 10.12, including that he may only return to train with a team or to use the facilities of a club or other member organisation of the RFL or a Signatory's member organisation during the last two months of his period of Ineligibility (i.e. from midnight on 14 November 2023) pursuant to ADR Article 10.12.4(b).

16 December 2016