

Issued Decision

UK Anti-Doping and Gabriel Evans

Disciplinary Proceedings Under the Anti-Doping Rules of the British Cycling Federation

This is an Issued Decision made by UK Anti-Doping Limited ('UKAD') pursuant to the anti-doping rules of the British Cycling Federation (the 'ADR'). It concerns violations of the ADR committed by Mr Gabriel Evans and records the Consequences to be applied.

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

Background and Facts

1. The British Cycling Federation ('BCF') is the governing body for the sport of cycling in the United Kingdom. UKAD is the National Anti-Doping Organisation for the United Kingdom.
2. Mr Evans is an 18 year old cyclist who was at the relevant time registered with Catford Cycling Club. He competes in events organised by the BCF as well as time trial events, which are convened by Cycling Time Trials ('CTT'). At all material times Mr Evans was subject to the jurisdiction of the BCF and was bound to comply with the ADR. Pursuant to the ADR, UKAD has results management responsibility in respect of all athletes subject to the jurisdiction of the BCF.
3. An investigation was commenced by UKAD into Mr Evans in August 2015, in connection with the suspected Use and Possession of Prohibited Substances. As part of this investigation, UKAD was provided with a vial that contained erythropoietin ('EPO'), being a vial that Mr Evans had purportedly used. The Drug Control Centre, Kings College, London (a World Anti-Doping Agency accredited Laboratory) analysed the contents of the vial. The analysis confirmed that the vial contained EPO.
4. Pursuant to the investigation Mr Evans admitted to UKAD that he had both purchased and used erythropoietin.
5. EPO is classified under section 2 of the WADA 2015 Prohibited List under the section headed 'Peptide Hormones, Growth Factors, Related Substances and Mimetics'. EPO is a Non-Specified Prohibited Substance.
6. Mr Evans does not have, nor has he ever held, a Therapeutic Use Exemption in respect of EPO.
7. Mr Evans consented to a voluntary Provisional Suspension on 16 October 2015. On 5 November 2015 he was charged with Use and Possession of the Prohibited Substance EPO under ADR Articles 2.2 and 2.6. Mr Evans has admitted the charges and this decision records the Consequences to be applied in respect of those Anti-Doping Rule Violations.
8. Mr Evans made a statement on the 'Timetrialling Forum' website on 10 December 2015. In this statement Mr Evans admitted to purchasing and using EPO. This information has been in the public domain since the statement was posted and has been widely reported and commented upon since.

Admission and Consequences

9. ADR Article 2.2 provides that the following constitutes an Anti-Doping Rule Violation:
- 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.
10. Mr Evans has admitted committing an Anti-Doping Rule Violation pursuant to ADR Article 2.2.
11. ADR Article 2.6 provides that the following constitutes an Anti-Doping Rule Violation:
- 2.6.1 Possession by an Athlete In-Competition of any Prohibited Substance or any Prohibited Method, or Possession by an Athlete Out-of-Competition of any Prohibited Substance or any Prohibited Method 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.
12. Mr Evans has admitted committing an Anti-Doping Rule Violation pursuant to ADR Article 2.6.
13. In terms of the sanction to be applied, ADR Article 10.2 provides:
- 10.2 Imposition of a Period of Ineligibility for the Presence, Use or Attempted Use, or Possession of Prohibited Substances 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 the potential reduction or suspension 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, unless the Athlete or other Person can establish that the Anti-Doping rule Violation was not intentional.
- b) The Anti-Doping Rule Violation involves a Specified Substance and UKAD can establish that the Anti-Doping Rule Violation was intentional.
- 10.2.2 If Article 10.2.1 does not apply, the period of Ineligibility shall be two years.
14. ADR Article 10.2.1(a) therefore provides that in relation to this matter (being a matter that concerns a Non-Specified Substance) the period of Ineligibility to be imposed shall be four years, unless Mr Evans can establish that the commission of the anti-doping rule violation was not intentional.
15. The meaning of 'intentional' is explained in ADR Article 10.2.3, which states:
- 10.2.3 As used in Articles 10.2 and 10.3, the term 'intentional' is meant to identify those Athletes or other 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 manifestly disregarded that risk. An Anti-Doping Rule Violation resulting from an Adverse Analytical Finding for a substance which is only prohibited In-Competition shall be rebuttably presumed to be not "intentional" if the substance is a Specified Substance and the Athlete can establish that the Prohibited Substance was Used Out-of-Competition. An Anti-Doping Rule Violation for a substance which is only prohibited In-Competition shall not be considered "intentional" if the substance is not a Specified Substance and the Athlete can

establish that the Prohibited Substance was used Out-of-Competition in a context unrelated to sports performance.

16. Mr Evans has admitted that he acted intentionally as the term is defined in ADR Article 10.2.3. Therefore a period of Ineligibility of four years pursuant to ADR Article 10.2.1(a) is to be applied.

17. Mr Evans is not entitled to any reduction under ADR Article 10.4 (No Fault or Negligence) or ADR Article 10.5 (No Significant Fault or Negligence).

18. ADR Article 7.7.4 provides:

7.7.4 In the event that (...) 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, the NADO shall promptly issue 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 publish the decision in accordance with Article 8.4.

19. UKAD issues this Decision pursuant to ADR Article 7.7.4.

Application of Article 10.6.3

20. ADR Article 10.6.3 provides:

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 Article 10.3.1 (for evading or refusing 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.

21. Article 10.6.3 provides that Mr Evans 'may receive a reduction in the period of Ineligibility down to a minimum of two years' if he has made a prompt admission. Any reduction depends on 'the seriousness of the violation' and Mr Evans' 'degree of Fault'. Any reduction is subject to 'the approval and at the discretion of both WADA and UKAD'.

22. Mr Evans admitted committing violations of ADR Article 2.2 and ADR Article 2.6 on 24 September 2015, before he was formally charged. He then admitted the charges in a response to the Notice of Charge within the time frame set out by UKAD. UKAD considers that Mr Evans has made a 'prompt admission' for the purposes of ADR Article 10.6.3, and therefore that ADR Article 10.6.3 is capable of application in this case.

23. UKAD has considered whether Mr Evans' sanction should be reduced under ADR Article 10.6.3, by reference to the seriousness of the violations and his level of Fault in the circumstances.

24. As regards the first criterion, UKAD has taken the view that Possession and Use of EPO charges are very serious violations and believes that Mr Evans sourced and used EPO specifically for performance enhancement. UKAD has not exercised its discretion to reduce the period of Ineligibility on the basis of the seriousness of the violations.

25. As regards the second criterion, 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.

26. UKAD has exercised its discretion to make a small reduction in the period of Ineligibility based on Mr Evans' Fault. In exercising this discretion UKAD has taken the view that Mr Evans' decision making skills were in part affected by his relative immaturity.

27. This proposed reduction was subject to the discretion and approval of WADA. UKAD sought WADA's views by way of a letter dated 7 December 2015. WADA confirmed that agreed with the proposed reduction.

28. Pursuant to Article 10.6.3, the period of Ineligibility is therefore three years and six months.

Disqualification of Results and Ineligibility

29. Mr Evans volunteered to be subject to a Provisional Suspension on 16 October 2015. ADR Article 10.11.3 provides:

10.11.3 Credit for Provisional Suspension or period of Ineligibility Served

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). No credit under this Article shall be given for any time period before the effective date of the Provisional Suspension.

30. The period of Ineligibility is therefore deemed to have commenced on 16 October 2015 and will expire at midnight on 15 April 2019.

31. During the period of Ineligibility, in accordance with ADR Article 10.12.1, Mr Evans 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 BCF, CTT, or by any body that is a member of, or affiliated to, or licensed by the BCF
- 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

- any elite or national-level sporting activity funded by a government agency
32. Mr Evans, BCF, UCI and WADA have a right of appeal against this decision or any part of it in accordance with ADR Article 13.4.
33. The disposition of these proceedings on the terms set out above will be publicly announced via UKAD's website.

Summary

34. For the reasons given above, UKAD has issued this decision, which records that:
- Mr Evans has committed violations of ADR Articles 2.2 and 2.6.1
 - a period of Ineligibility of three (3) years and six (6) months is imposed pursuant to ADR Article 10.6.3
 - the period of Ineligibility is deemed to have commenced from 16 October 2015 and will end at midnight on 15 April 2019
 - Mr Evans' status during the period of Ineligibility shall be as detailed in ADR Article 10.12

18 December 2015.