

## Issued Decision

# UK Anti-Doping v Nathan Darby

### 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 of the Rugby Football League (the 'ADR'). It concerns a violation of the ADR committed by Mr Nathan Darby 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 Rugby Football League ('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.
2. Mr Darby is a 21 year-old rugby league player who plays for Hunslet Hawks RLFC. At all material times Mr Darby was subject to the jurisdiction of the RFL and 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 RFL.
3. On 14 January 2016, UKAD collected an Out-of-Competition Sample from Mr Darby pursuant to the ADR ('the Sample').
4. The Sample was submitted for analysis to the Drug Control Centre, King's College London, a World Anti-Doping Agency ('WADA') accredited laboratory ('the Laboratory'). The Laboratory analysed the Sample in accordance with the procedures set out in WADA's International Standard for Laboratories. This analysis returned an Adverse Analytical Finding ('AAF') for nandrolone, oxandrolone and its metabolite epioxandrolone and 17 $\alpha$ -trenbolone (a metabolite of trenbolone).
5. Nandrolone, oxandrolone and trenbolone are classified under section 1.1(a) of the WADA 2016 Prohibited List as exogenous anabolic androgenic steroids. They are all Non-Specified Prohibited Substances.
6. Mr Darby does not have, nor has he ever held, a Therapeutic Use Exemption in respect of nandrolone, oxandrolone or trenbolone.
7. On 12 February 2016 UKAD issued Mr Darby with a Notice of Charge ('the Charge'). The Charge related to the commission of an Anti-Doping Rule Violation pursuant to ADR Article 2.1 (Presence of Prohibited Substances in the Sample). The Charge explained the facts relied on in support of the allegation, the details of the Charge, the procedure for analysis of the B Sample and the Consequences of an admission or proof of the Anti-Doping Rule Violation.
8. Mr Darby has admitted the violation set out in the Charge and this Decision records the Consequences to be applied in respect of that violation.

### Admission and Consequences

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9. ADR Article 2.1 provides that the Presence of a Prohibited Substance or its Metabolites or Markers in an Athlete's Sample constitutes an Anti-Doping Rule Violation
10. Mr Darby has admitted committing a violation pursuant to ADR Article 2.1. In terms of the relevant 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.

11. ADR Article 10.2.1(a) therefore provides that in relation to this matter (being a matter that concerns Non-Specified Substances) the period of Ineligibility to be imposed shall be four years, unless Mr Darby can establish that the commission of the Anti-Doping Rule Violation was not intentional. 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. (...)

12. Mr Darby has admitted that he acted intentionally as that term is defined in ADR Article 10.2.3. Mr Darby is therefore not entitled to any reduction of sanction pursuant to ADR Article 10.4 (No Fault or Negligence) or ADR Article 10.5 (No Significant Fault or Negligence).

13. A period of Ineligibility of four years must therefore be imposed on Mr Darby.

14. 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.

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

### Application of Article 10.6.3

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16. 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.

17. Article 10.6.3 provides that Mr Darby '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 Darby's 'degree of Fault'.

18. Mr Darby admitted the Anti-Doping Rule Violation after being confronted with it by UKAD. UKAD considers that Mr Darby 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.

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

20. As regards the first criterion, UKAD has taken the view that testing positive for three Prohibited Substances, all of which are powerful anabolic steroids, is a very serious violation. UKAD has not exercised its discretion to reduce the period of Ineligibility on the basis of the seriousness of the violation.

21. 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.

22. Mr Darby has admitted that he deliberately ingested nandrolone, oxandrolone and trenbolone without any consideration for his responsibilities as an athlete subject to the ADR. UKAD has determined that Mr Darby's level of Fault in these circumstances is high and has not exercised its discretion to reduce the period of Ineligibility on the basis of his level of Fault.

23. The period of Ineligibility to be imposed therefore remains at four years, pursuant to ADR Article 10.2.1(a), as referred to above.

### **Disqualification of Results and Ineligibility**

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24. Mr Darby has been subject to a Provisional Suspension since the date of the Charge. ADR Article 10.11.3 provides:
- 10.11.3 Credit for Provisional Suspension of 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). No credit under this Article shall be given for any time period before the effective date of the Provisional Suspension.
25. The period of Ineligibility is therefore deemed to have commenced on 12 February 2016 and will expire at midnight on 11 February 2020.
26. During the period of Ineligibility, in accordance with ADR Article 10.12.1, Mr Darby 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
  - any elite or national-level sporting activity funded by a government agency
27. Mr Darby 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 11 December 2019) pursuant to ADR Article 10.12.4(b).
28. Mr Darby, the RFL and WADA have a right of appeal against this decision or any part of it in accordance with ADR Article 13.4.
29. The disposition of these proceedings on the terms set out above will be publicly announced via UKAD's website.

### **Summary**

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30. For the reasons given above, UKAD has issued this decision, which records that:
- Mr Darby has committed an Anti-Doping Rule Violation pursuant to ADR Article 2.1
  - a period of Ineligibility of four (4) years is imposed pursuant to ADR Article 10.2.1
  - the period of Ineligibility is deemed to have commenced from 12 February 2016 and will end at midnight on 11 February 2020
  - the Athlete's status during the period of Ineligibility shall be as detailed in ADR Article 10.12

24 May 2016.