

**IN THE MATTER OF PROCEEDINGS BROUGHT UNDER THE ANTI-DOPING RULES OF
THE RUGBY FOOTBALL LEAGUE**

Before:

Kate Gallafent QC (Chair)
Colin Murdock
Professor Nicol Ferrier

BETWEEN:

UK Anti-Doping

Anti-Doping Organisation

and

Adam Carr

Respondent

DECISION OF THE DISCIPLINARY TRIBUNAL

Background and procedure

1. On 28 February 2020 United Kingdom Anti-Doping (“**UKAD**”) charged Adam Carr with a violation of Article 2.1 of the Anti-Doping Rules of the Rugby Football League (“**ADR**”) arising from an Adverse Analytical Finding (“**AAF**”) indicating the presence of a Prohibited Substance or its Metabolites or Markers (clenbuterol) in a Sample collected from him Out-of-Competition on 9 December 2019.

2. At that time Mr Carr (20) was registered as a rugby league player at Rochdale Hornets RLFC (“**Rochdale**”).
3. On 10 March 2020, Mr Carr’s legal representative sent a written response to the Notice of Charge to UKAD in which Mr Carr accepted the presence of clenbuterol in his Sample. Mr Carr denied that there was any Fault or negligence and/or any significant Fault or negligence on his part and requested a full hearing of the case before the NADP, as well as the lifting of the Provisional Suspension imposed at the time of the Notice of Charge.
4. The President of the NADP duly appointed the Chair on 13 March 2020, and the other members of the Tribunal were subsequently appointed on 11 May 2020.
5. On 20 March 2020, Mr Carr withdrew his application to lift the Provisional Suspension in light of the then-developing situation concerning COVID-19.
6. The Chair held a telephone directions hearing on 31 March 2020 attended by Mr Simon McCann on behalf of Mr Carr and Ms Nisha Dutt on behalf of UKAD. In accordance with directions issued by the Chair on 31 March 2020, as subsequently varied by agreement, Mr Carr filed and served his full response to the charge and all evidence to be relied upon in these proceedings on 27 April 2020 and UKAD filed and served its response and evidence on 12 May 2020. Mr Carr then filed written submissions on 3 June 2020 and UKAD filed submissions in response on 19 June 2020.
7. The hearing took place on 29 June 2020 by video-conference, save in respect of witnesses for whom that was not feasible, in the light of the current COVID-19 pandemic.
8. Mr Carr gave evidence and was cross-examined on behalf of UKAD (represented by Mr Paul Renteurs), as did his father, Michael Carr, Michael Denning (Chair of Thatto Heath Crusaders “**THC**”), Gavin Duffy (Personal Trainer) and Josh Kearsley (a friend of Mr Carr). Both Mr Duffy and Mr Kearsley gave evidence by phone rather than video-conference. Matthew Barnes (Head of Legal at the RFL) and Nick Wojek (Head of Science and Medicine at UKAD) gave evidence on behalf of UKAD and were cross-examined on behalf of Mr Carr by Mr McCann.
9. Although it had been anticipated that the hearing would be concluded on that date, in the event Mr McCann unfortunately suffered technical problems (through no fault of his own), such that was necessary for closing submissions to be made at a later date. As it was not possible to reconvene within the subsequent two weeks due to the unavailability of various persons, the Tribunal, with

the agreement of the parties, directed that there should be a sequential exchange of written closing submissions. UKAD duly filed submission on 3 July 2020, and Mr Carr in response on 10 July 2020. The Tribunal then deliberated by telephone on 16 July 2020.

10. We would express our gratitude to all representatives for their assistance, particularly to Mr McCann and his instructing solicitor Mr Eastwood who represented Mr Carr *pro bono*.

Legal Framework

11. The burden rests on UKAD to establish the commission of an Anti-Doping Rule Violation (“**ADRV**”) to the comfortable satisfaction of the hearing Panel (ADR Article 8.3.1).

12. ADRVs are defined at Article 2 of the ADR, which provides that the following constitutes 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*

2.1.1 It is each Athlete’s personal duty to ensure that no Prohibited Substance enters his/her body. An Athlete is responsible for any Prohibited Substance or any of its Metabolites or Markers found to be present in his/her Sample. Accordingly, it is not necessary that intent, Fault, negligence or knowing Use on the Athlete’s part be demonstrated in order to establish an Anti-Doping Rule Violation under Article 2.1; nor is the Athlete’s lack of intent, Fault, negligence or knowledge a valid defence to a charge that an Anti-Doping Rule Violation has been committed under Article 2.1.

2.1.2 Proof of any of the following to the standard required by Article 8.3.1 is sufficient to establish an Anti-Doping Rule Violation under Article 2.1:

(a) Presence of a Prohibited Substance or any of its Metabolites or Markers in the Athlete’s A Sample, where the Athlete waives his/her right to have his/her B Sample analysed and so the B Sample is not analysed; [...]

13. Where an ADRV is established, the period of Ineligibility to be applied is set out at ADR Article 10.2:

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 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,¹ 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.

10.2.3 As used in Articles 10.2 and 10.3, the term "intentional" is meant to identify those Athletes ... who cheat. The term, therefore, requires that the Athlete ... engaged in conduct which he ... 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...

14. In the case of *Thomas Curry v UKAD (Appeal) SR/NADP/968/2017* the Sole Arbitrator considered of the word 'cheat' in ADR Article 10.2.3. He stated:

"In construing this provision, it is important to bear in mind that a 'presence' ADRV is a 'strict liability' violation. Per ADR Article 2.1.1 it is expressly provided that questions of fault, intent, negligence are not relevant considerations as to whether an ADRV in terms of ADR 2.1 has been committed. In terms of ADR Article 2.1.2(a) mere presence of a Prohibited Substance in an A Sample is sufficient to constitute the ADRV. Accordingly, when considering the intention of an Athlete, for the purposes of ADR Article 10.2.1(a), in ingesting a Prohibited Substance, which is a Specified Substance, whether the Athlete intended to gain a competitive advantage by so ingesting is not a question to which the provision is addressed. Rather, the relevant question is whether the Athlete intended, within the meaning of ADR Article 10.2.3 that the Prohibited Substance or its Metabolites or Markers be present in his system so

¹ Clenbuterol appears at Section S1.2 (Other Anabolic Agents) of the WADA Prohibited List 2019; it is a Non-Specified Substance and is prohibited at all times.

that it or they would be present in the Sample provided by him in the event that he was required to provide a Sample...” (§23)

15. The period of Ineligibility may be reduced, so far as potentially relevant in this case, in the following scenarios:

10.4 Elimination of the Period of Ineligibility where there is No Fault or Negligence

If an Athlete or other Person establishes in an individual case that he/she bears No Fault or Negligence for the Anti-Doping Rule Violation charged, then the otherwise applicable period of Ineligibility shall be eliminated.

10.5 Reduction of the period of Ineligibility based on No Significant Fault or Negligence

10.5.2 Application of No Significant Fault or Negligence beyond the Application of Article 10.5.1: In an individual case where Article 10.5.1 is not applicable, if an Athlete or other Person establishes that he/she bears No Significant Fault or Negligence, then (subject to further reduction or elimination as provided in Article 10.6) the otherwise applicable period of Ineligibility may be reduced based on the Athlete's or other Person's degree of Fault, but the reduced period of Ineligibility may not be less than one-half of the period of Ineligibility otherwise applicable.

16. These terms are in turn defined in the Appendix: Definitions to the ADR:

Fault:

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, 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. [...]"

No Fault or Negligence:

The Athlete or other Person's establishing that he or she did not know or suspect, and could not reasonably have known or suspected, even with the exercise of utmost caution, that he or she had Used or been administered the Prohibited Substance or Prohibited Method or otherwise violated an anti-doping rule. Except in the case of a Minor, for any violation of Article 2.1, the Athlete must also establish how the Prohibited Substance entered his or her system.

No Significant Fault or Negligence:

The Athlete or other Person's establishing that his or her Fault or negligence, when viewed in the totality of the circumstances and taking into account the criteria for No Fault or Negligence, was not significant in relationship to the anti-doping rule violation. Except in the case of a Minor, for any violation of Article 2.1, the Athlete must also establish how the Prohibited Substance entered his or her system.

17. In considering what is meant by “*utmost caution*” the starting point is ADR Article 1.3.1 which provides that:

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, including (without limitation) being aware of what constitutes an Anti-Doping Rule Violation and of what substances and methods are on the Prohibited List;*

[...]

(c) *to take full responsibility for what he/she ingests and uses;*

(d) *to carry out research regarding any products or substances which he/she intends to ingest or Use (prior to such ingestion or Use) to ensure compliance with these Rules; such research shall, at a minimum, include a reasonable internet search of (1) the name of the product or substance, (2) the ingredients/substances listed on the product or substance label, and (3) other related information revealed through research of points (1) and (2);*

(e) *to ensure that any medical treatment he/she receives does not infringe these Rules;*

[...]

The Evidence

18. Mr Carr was a registered amateur player for THC in St Helens from 2013 up to and including the final game of the season on 28 September 2019. In his response to the Notice of Charge Mr Carr indicated that on or about 11 October 2019 he began a programme of private gym sessions at the Evolution Gym in St Helens as pre-season training before returning to training with Thatto Heath in January 2020. In his witness statement subsequently prepared for the hearing he stated

that the training was not connected to rugby training in any way, but was for the purpose of seeking to improve his fitness and body image. The training programme was due to end on 11 December 2019. Mr Kearsley's evidence was that it actually ended on 4 December 2019.

19. In his summary response to the Notice of Charge Mr Carr indicated that as part of that programme his personal trainer, Mr Duffy, recommended that he take a widely available supplement (Clenox) as part of a fat burning regime. In his subsequent witness statement Mr Carr said that Mr Duffy had identified that there were 'fat burner supplements' available that would be helpful in his progress, but he did not suggest that Mr Duffy had specifically recommended Clenox. Mr Duffy's evidence was that he had suggested that Mr Carr use some fat burner supplements so as to aid the fat burning process and get a better body image, but that he had not specifically recommended Clenox.
20. Mr Carr obtained a packet of 100 tablets of Clenox from a friend, Josh Kearsley. Mr Kearsley's evidence was that Mr Carr had mentioned to him that his personal trainer had suggested that supplements might aid the fat burning process and assist with his goal of getting a better body image, and that Mr Carr had asked whether he could obtain a fat burning supplement for him. According to Mr Carr he did not ask Mr Kearsley to buy Clenox for him, just a fat burning supplement. Mr Kearsley obtained the Clenox from someone he was connected with at the gym he went to, but was not willing to identify that person. He gave Mr Carr the Clenox on or about 14 October 2019, for which he was paid £30 in cash. According to Mr Carr he asked Mr Kearsley where he got the tablets from, to which he replied it was a third party at his gym, but Mr Carr did not ask who, or where the pills were from, or whether the third party had any medical qualifications.
21. Mr Carr's evidence was that when he obtained the Clenox tablets he did not Google them, as he had gone to school with Mr Kearsley his whole life and trusted his opinion. He told the Tribunal that Mr Kearsley had used them before, and he trusted his opinion that when Mr Kearsley had used it he had found that it was suitable for him. He could not recall whether the tablets came with any written instructions, but there had been nothing on the packaging that led him to suspect that it was an illegal or banned substance.
22. Mr Kearsley's evidence was that he had not used Clenox himself, and could not remember if he had told Mr Carr that he had but presumed that he hadn't as he had not taken it. He told the Tribunal that he was unaware that Clenbuterol was illegal in the United Kingdom, and was shocked when he found out.

23. Mr Carr's evidence was that he proceeded to consume 2 -3 per day, as that was what Mr Kearsley had told him that Mr Kearsley had done himself. He said that he experienced side effects in the form of his hands shaking, but he did not check those out because he trusted Mr Kearsley's decision.
24. Mr Carr told the Tribunal that he had stopped taking the tablets at the end of the course as it was just a 'one-time' thing. He denied that he had stopped taking them because training was due to start in January 2020. In response to questions by the Tribunal Mr Carr stated that he had stopped taking them around the Wednesday before the test (and therefore within the period of seven days prior to the test), which he remembered because that was when he was contacted by Craig Farrimond. In a statement sent to UKAD on 29 February 2020 Mr Carr's father had previously indicated that the AAF was the result of Mr Carr having ingested Clenbuterol on Saturday 28 November 2019.
25. Mr Farrimond is the Assistant Coach at Rochdale, having previously been the Assistant Coach at THC until 18 November 2019. He started at Rochdale on 20 November 2019. Mr Farrimond contacted Mr Carr on the evening of Wednesday 3 December 2019 to ask about his plans for the next season. The Tribunal was provided with copies of text messages between them from that evening and the following day, which confirm that Mr Farrimond invited him to undertake four weeks training with the Rochdale Hornets.
26. Mr Carr attended his first training session with Rochdale on 5 December 2019. On Saturday 7 December 2019 he signed a standard form professional player contract with Rochdale, by which he agreed (amongst other things) to comply with the Regulations (defined to include the ADR) and Club Rules, as well as an RFL professional player registration form. Although the professional registration form stated that Mr Carr had received a copy of the RFL's Anti-Doping Booklet Mr Carr's (unchallenged) evidence was that he had not in fact done so.
27. The Sample collection took place just two days later, on Monday 9 December 2019. In response to the "Declaration of Medication" box on the Doping Control Form, by which Mr Carr was asked to "*provide details of any prescription / non-prescription medication or supplements taken in the last seven days, including dosage where possible*" Mr Carr stated "*paracetamol*". Mr Carr said that he had agreed to the test as he had no reason not to do so, as he did not know anything about drug testing or what banned substances were. He confirmed to the Tribunal that the Doping Control Officer had read out to him the question on the "Declaration of Medication" box.

When asked why he hadn't declared Clenox in response to that question Mr Carr stated that he thought it was medication, it wasn't in the forefront of his mind and he had never been in that situation before.

28. Mr Carr stated in his witness statement that in January 2020 (prior to the Notification of Charge) he was prescribed two medications for a chest infection (Clarithromycin and Prednisolone) and had a week off due to illness. When he resumed training he talked to the coaches and the club physiotherapist (Matt) who asked him to send the details to him to check in case of any random drug tests due to one of the medications (Prednisolone) being steroid based. He says that this was the first time in his life that he was made aware of anything that was prohibited / not prohibited. In his statement of 29 February 2020 Mr Carr's father dated his report to the club doctors as 4 January 2020.
29. Mr Carr's evidence was that the first time that he actually became aware of his responsibilities as a rugby league player was in early January 2020 when Rochdale had their player induction after training. His father dated this event as 11 January 2020.
30. Later in his witness statement Mr Carr stated that he was unaware of UKAD, drugs in sport and so on before 28 February 2020 (i.e. the Notice of Charge).
31. The Tribunal also heard evidence about the extent to which information about anti-doping had been disseminated to Tier 4 clubs such as THC.
32. Mr Barnes' evidence was that the RFL would send materials to such clubs, perhaps including the odd poster, and expected clubs to roll out the materials to all players and others in the club. He stated that the majority of education went towards professional players with the highest profiles in the game, and that education and advice to non-professional players would come mainly from the community department of the RFL.
33. The materials that Mr Barnes produced to the Tribunal, and relied upon in support of his assertion that Mr Carr should have been aware of his anti-doping responsibilities whilst at THC, were (i) the RFL's Operational Rules for Tiers 4-6; (ii) the RFL Community Game First Aid Standards; and (iii) THC's Codes of Conduct.
34. So far as the RFL's Operational Rules for Tiers 4-6 are concerned, this is a 191 page document

which contains (at p.26) the statement that “*Each Person subject to the Operational Rules agrees (and is deemed by participation in the Game and/or acceptance of their position and/or completion of an RFL Registration Form) to be bound by the Operational Rules, the Rules and Regulations of any body of which the RFL is a member, the terms of any agreement entered into by the RFL and the Laws of the Game and accept the jurisdiction of the RFL and agrees to be bound and observe all codes of conducts, regulations, rules and policies published by the RFL from time to time including, but not limited to: (a) the Anti-Doping Regulations*”.

35. The RFL Community Game First Aid Standards are an Appendix to the Operational Rules for Tiers 4-6 (Section F8).
36. According to the evidence of Mr Denning, the National Conference League recommended that clubs had a code, which he was sure had been drafted by the RFL, and was published on THC’s website. The THC Code of Conduct states “*do not attempt to improve your performance by the use of banned substances or banned techniques*”. Mr Denning could not say that each player was directed to it, or asked to sign it. As for any posters in relation to anti-doping, he could not guarantee the position, and was sure that in the past the RFL have sent posters making players aware of being vigilant about supplements, but when he checked at THC he didn’t find any in relation to anti-doping. He suggested that perhaps this issue was not as high up on RFL’s priority list as it should be.

Decision

Was the ADRV Intentional?

37. We do not need to find, and do not find, that Mr Carr intended to cheat. We accept his evidence that he took Clenox with the primary aim of improving his body image; in his words, he wanted to be more “*vascular*”. We fully recognise that for many young people the use of fat burning supplements is seen as a reasonable response to the perceived pressures exerted by being surrounded by images of athletes, models and influencers on social media such as Instagram with what some might describe as “*perfect bodies*”.
38. However, as the Sole Arbitrator pointed out in *Curry*, conduct may be intentional within the meaning of ADR 10.2.3 even where there was no intention to cheat.

39. Mr Carr's case on 'intention' is straightforward: he argues that as he knew nothing of the ADR, or that they might even apply to him, he could not have intentionally broken a rule of which he was unaware, or manifestly disregard a risk that he did not even know was there.

40. Three issues arise in this context:

- a. Did Mr Carr know that taking Clenox constituted an ADRV? If not,
- b. Did Mr Carr know that there was a significant risk that taking Clenox might constitute or result in an ADRV? If so,
- c. Did Mr Carr manifestly disregard that risk?

Knowledge of ADRV

41. So far as awareness of the ADR is concerned, we have carefully considered the evidence of Mr Barnes and the documents referred to. We note that there was no evidence before us as to how, if at all, these Operational Rules were drawn to the attention of clubs in Tiers 4-6, or how, if at all, the RFL had communicated to clubs in Tiers 4-6 its apparent expectation that these Operational Rules should in turn be communicated to players. We recognise that Mr Barnes has only been in post since early 2019, and that as Head of Legal he is not directly involved in communications with community clubs, but we nevertheless considered that the absence of any concrete evidence on these points was concerning, particularly having regard to Mr Denning. Mr Denning struck us as a very frank witness, who indicated that he felt that the club had let Mr Carr down, and there was nothing in his description of the types of communications that THC received from the RFL (and the lack of focus on anti-doping) that was challenged by UKAD.

42. We also noted Mr Barnes assertion in his witness statement that "*clubs receive [the First Aid Standards], to share with their players*"; there is nothing in those Standards to suggest that clubs are expected to share them with their players, or that players are the intended audience. On the contrary, the "*Disclaimer*" at the beginning of the Standards states "*The information provided in this booklet has been provided to assist those with responsibility for running clubs and providing first aid cover and related medical issues in the Rugby League Community Game*".

43. Against this background, we accept that Mr Carr did not know that ingesting Clenox constituted an ADRV.

Significant risk of ADRV

44. The issue therefore moves to whether Mr Carr knew that there was a significant risk that the conduct might constitute or result in an ADRV.
45. We accept Mr Carr's evidence that he had not been provided with anti-doping education whilst at THC; that he was not aware of the reference to banned substances in THC's Code of Conduct for Players; and that he was not provided with the Anti-Doping Booklet referred to in the Professional Registration Form he signed on 7 December 2019.
46. Mr Carr accepted, when questioned, that he did have some awareness of professional athletes facing disciplinary action for using banned substances. Nevertheless, he maintained that he was not aware that any form of anti-doping regime applied to him until January or February 2020.
47. In considering Mr Carr's evidence on this point we note that, on any view, the statement made that he was unaware of "*UKAD, drugs in sport and so on*" until receipt of the Notice of Charge on 28 February 2020 is unsustainable. On his own evidence, he positively relies upon the fact that he had provided the Rochdale Club Physio with photographs of medication he was taking for an infection in January 2020, and they had a text exchange about their use whilst in preseason.
48. We also note that although Mr Carr suggested (in the alternative) that he was first aware of anti-doping obligations following pre-season induction training, his father dates this as 11 January 2020 and his report to the Club Physio as 4 January 2020, which suggests that Mr Carr was aware of his anti-doping obligations prior to the pre-season training.
49. We have also had regard to the fact the Mr Carr did not declare his use of Clenox on the Doping Control Form. Whilst we accept that random testing was a completely unfamiliar experience for him, we do not consider that he could have misunderstood the obligation to declare all medications and supplements that he had been taking in the previous seven days. His evidence to the Tribunal was that this included Clenox, which he had been taking for a period of some six weeks before stopping just a few days earlier.
50. As for the timing of his stopping taking Clenox, we note that it was expressly connected by Mr Carr with the inquiry by Mr Farrimond about training for Rochdale.

51. In all the circumstances we find that Mr Carr did not disclose his use of Clenox because he was concerned – although did not know – that it might be a substance which he was not permitted to use as a professional rugby player. It was for the same reason that he did not continue taking Clenox at the point when Mr Farrimond had suggested that he join Rochdale.

52. The question then becomes: does it follow from the fact that Mr Carr knew there was a significant risk that taking Clenox might constitute or result in an ADRV as a professional player that he also knew of such a risk whilst an amateur player? In our view it does. Even if he did not know for sure whether or not the anti-doping regime applied to amateur players he must have known that there was a significant risk that it did.

Manifest disregard of the risk

53. Mr Carr's case is that he had no reason to look up what Clenox was, since it was given to him by his friend as a fat-burner, even when he felt some slight side-effects.

54. We have no hesitation in finding that Mr Carr manifestly disregarded the risk in this case. We find it surprising, and concerning, that any young player who took his health and sport serious (as Mr Carr clearly did) would not want to check even the most basic of information about the product that he had been given by a friend, who had obtained it from an unidentified friend of his in another gym, and which apparently came with no instructions even as to dose.

No Fault or Negligence / No Significant Fault or Negligence

55. Although ADR 10.2.1 allows, in principle for potential reduction or suspension pursuant to ADR 10.4 (No Fault or Negligence) or ADR 10.5 (No Significant Fault or Negligence), we cannot see how a reduction on either of those bases could properly be made when we have found, as we have, that Mr Carr knew that there was a significant risk that the conduct might constitute or result in an ADRV and manifestly disregarded that risk.

56. In our view this conclusion necessarily follows, on a proper construction of the ADR. But we would want to record our regret that it does so, in the particular circumstances of this case.

57. We emphatically share Mr Denning's concern that anti-doping education for the community game, is not a priority for the RFL. We appreciate, of course, that the RFL does not have unlimited resources but it does seem to us that the focus solely on the professional game, to the detriment of the community game, means that there may well be mis-use of supplements and medications of which the RFL is wholly unaware.

58. Unlike the RFU,² for example, the RFL has not commissioned any research into anti-doping in the community game particularly amongst school aged players. Nor does it appear that it understands the importance of tailoring the anti-doping message to the intended audience; the use of First Aid Standards or a paragraph in a manual running to hundreds of pages is self-evidently not going to be effective in communicating to young players and others in the community game that the anti-doping regimes applies just as much to them as it does to professional players. Given how clear an influence social media is on young players in particular, it seems to us essential that it be used constructively by the RFL to communicate its anti-doping message.

59. In particular, there should be a clear focus by the RFL on the risks of any player obtaining supplements or medication from contacts (or contacts of contacts) at a gym or other non-professional environments. A continued failure to do so will almost inevitably, and regrettably, result in others finding themselves in similar situations to Mr Carr.

60. We would also wish to emphasise again that we have not found that Mr Carr intended to cheat. The imposition of a four year ban will be a very considerable blow to him in his sporting career, but it does not follow that it should be in his career as a trainee accountant.

Commencement of Ineligibility Period

61. ADR Article 10.11 requires that the period of Ineligibility starts on the date of the final decision providing for Ineligibility subject to certain exceptions.

62. First, Article 10.11.3 requires that a player receives credit for any period of Provisional Suspension that has been respected by the Athlete. Mr Carr was provisionally suspended on 28 February 2020. UKAD do not dispute that Mr Carr has respected the Provisional Suspension.

² <https://www.leedsbeckett.ac.uk/news/0218-action-needed-to-address-schoolboy-doping-vulnerability/>

63. Secondly, ADR 10.11.2 provides as follows:

10.11.2 Timely Admission:

Where the Athlete [...] 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 ... shall serve at least one-half of the period of Ineligibility going forward from the date the Athlete [...] accepted the imposition of a sanction, the date of a hearing decision imposing a sanction, or the date the sanction is otherwise imposed. [...]

64. Mr Carr was charged with this ADRV on 28 February 2020. On 10 March 2020, a written response to the Notice of Charge was filed by Mr Carr's legal representative. In that response, the presence of clenbuterol in the A Sample was accepted. In all the circumstances we consider it appropriate for the period of Ineligibility to start on 9 December 2019, the date of Sample collection.

Conclusion

65. For the reasons set out above, we find as follows:

- a. Mr Carr has violated ADR Article 2.1 by virtue of the presence of a Prohibited Substance in the Sample he provided on 9 December 2019;
- b. Mr Carr has not discharged the burden on him under ADR Article 10.2.1(a) to establish that the ADRV was not 'intentional', as that term is defined in Article 10.2.3;
- c. A period of Ineligibility of four years is imposed under ADR Article 10.2.1, such period to run from the date of Sample collection on 9 December 2019, to expire on 8 December 2023

66. In accordance with ADR Article 13, the Parties have a right of appeal to the NADP Appeal Tribunal. In accordance with Article 13.5 of the Procedural Rules any party who wishes to appeal must lodge a Notice of Appeal with the NADP Secretariat within 21 days of receipt of this decision.



Kate Gallafent QC (Chair)
For and on behalf of the Tribunal
30 July 2020
London

1 Salisbury Square London EC4Y 8AE resolve@sportresolutions.co.uk 020 7036 1966

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