

## Issued Decision

# UK Anti-Doping and Erin McBride

### Disciplinary Proceedings under the Anti-Doping Rules of British Cycling

This is an Issued Decision made by UK Anti-Doping Limited ('UKAD') pursuant to the Anti-Doping Rules (the 'ADR') of British Cycling ('BC'). It concerns violations of the ADR committed by Ms Erin McBride and records the applicable Consequences.

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

### Background and Facts

1. BC is the national governing body for the sport of cycling in the UK. UKAD is the National Anti-Doping Organisation for the UK.
2. Ms McBride is a 23-year-old visually impaired para-cyclist. She is an Athlete on the World Class Programme and registered with BC. At all material times in this matter, Ms McBride was subject to the jurisdiction of BC and bound to comply with the ADR. Pursuant to the ADR, UKAD has results management responsibility in respect of all cyclists subject to the jurisdiction of BC.
3. On 3 March 2021, UKAD collected an Out-of-Competition urine Sample from Ms McBride at the National Cycling Centre, Stuart Street, Manchester M11 4DQ. The Sample was separated into two bottles which were given the reference numbers A1167008 (the 'A Sample') and B1167008 (the 'B Sample').
4. Both Samples were transported to the World Anti-Doping Agency ('WADA') accredited laboratory, the Drug Control Centre, King's College London (the 'Laboratory'). The A Sample was analysed in accordance with WADA's International Standard for Laboratories and Technical Letter – T12. The analysis of Ms McBride's A Sample returned an Adverse Analytical Finding ('AAF') for ostarine.
5. Ostarine is listed under section S1.2 of the WADA 2021 Prohibited List as an Anabolic Agent. It is a non-Specified Substance that is prohibited at all times.
6. Ms McBride did not have a Therapeutic Use Exemption.
7. On 23 April 2021 UKAD sent Ms McBride a Notification Letter issuing her with a Provisional Suspension and formally notifying her in accordance with ADR Article 7.8 that she may have committed an Anti-Doping Rule Violation ('ADRV') pursuant to ADR Article 2.1 (Presence of a Prohibited Substance or its Metabolites or

Markers in an Athlete's Sample) and / or ADR Article 2.2 (Use or Attempted Use by an Athlete of a Prohibited Substance or a Prohibited Method).

8. On 24 April 2021, Ms McBride asserted that she had '*not knowingly taken any substance*'. On 29 April 2021 Ms McBride sought an extension, until 18 May 2021, to provide her full response to the Notification Letter. On 18 May 2021, Ms McBride sought a further two-week extension to respond. UKAD granted a limited further extension, until 24 May 2021.
9. On 24 May 2021, Ms McBride requested that the Laboratory analyse the B Sample pursuant to ADR Article 7.9.1. On 16 June 2021, the Laboratory analysed the B Sample in accordance with the procedures set out in WADA's International Standard for Laboratories. The B Sample analysis confirmed the AAF for ostarine in respect of the A Sample. This was confirmed to Ms McBride on 17 June 2021. Accordingly, UKAD sought Ms McBride's full response to the Notification Letter by 24 June 2021. Ms McBride sought (and was granted) several extensions to this deadline on the grounds of ill-health.
10. On 20 July 2021 Ms McBride provided a full response to the Notification Letter. UKAD considered Ms McBride's response and proceeded to issue a Charge Letter on 9 August 2021 alleging the commission of an ADRV pursuant to ADR Article 2.1 and / or ADR Article 2.2.

### **Admission and Consequences**

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11. On 29 August 2021 Ms McBride formally admitted committing ADRVs pursuant to ADR Articles 2.1 and 2.2.
12. ADR Article 2.1 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***
13. ADR Article 2.2 provides that the following constitutes 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***
14. ADR Article 10.2 states 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 suspension pursuant to Article 10.5, 10.6 or 10.7:*

*10.2.1 Save where Article 10.2.4(a) applies, the period of Ineligibility shall be four (4) years where:*

- (a) *The Anti-Doping Rule Violation does not involve a Specified Substance or a 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, then (subject to Article 10.2.4(a)) the period of Ineligibility shall be two (2) years.*

15. With regards to the meaning of 'intentional', ADR Article 10.2.3 states as follows:

*10.2.3 As used in Article 10.2, the term "intentional" is meant to identify those Athletes or other Persons who engage in conduct which they know constitutes an Anti-Doping Rule Violation or they know that there is a significant risk that the conduct might constitute or result in an Anti-Doping Rule Violation and they manifestly disregard that risk...*

- 16. In accordance with 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 Ms McBride can establish, on the balance of probability, that the commission of the ADRV's was not intentional<sup>1</sup>.
- 17. Ms McBride asserted in her response to the Charge that she never intentionally or knowingly consumed ostarine. She stated that she faced considerable difficulties in her investigations as to how ostarine came to be present in her sample due to (i) being a visually impaired athlete and having more difficulty controlling her environment; (ii) her separation from her boyfriend during her investigations which prevented her from being able to investigate his supplements; and (iii) financial limitations which meant that she could not test every possible potential source of contamination. Ms McBride has not provided any evidence to support these assertions. In these circumstances, Ms McBride accepts that she is not able to demonstrate that she did not commit the ADRV's intentionally, as defined in ADR Article 10.2.3. Accordingly, Ms McBride is not entitled to any reduction of sanction

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<sup>1</sup> Comment 58 to the 2021 World Anti-Doping Code reads: "[Comment to Article 10.2.1.1: While it is theoretically possible for an Athlete or other Person to establish that the anti-doping rule violation was not intentional without showing how the Prohibited Substance entered one's system, it is highly unlikely that in a doping case under Article 2.1 an Athlete will be successful in proving that the Athlete acted unintentionally without establishing the source of the Prohibited Substance.]"

pursuant to ADR Article 10.5 (No Fault or Negligence) or ADR Article 10.6 (No Significant Fault or Negligence).

18. For the purposes of imposing a sanction, the two ADRV's will be considered together as a single first violation, pursuant to ADR Article 10.9.4 which states as follows:

*10.9.4 Additional rules for certain potential multiple offences:*

*(a) For the purposes of imposing sanctions under Article 10.9, except as provided in Articles 10.9.4(b) and 10.9.4(c) an Anti-Doping Rule Violation will only be considered a second (or third, as applicable) Anti-Doping Rule Violation if UKAD can establish that the Athlete or other Person committed the additional Anti-Doping Rule Violation after they received notice, or after UKAD or its designee made a reasonable attempt to give notice, of the first (or the second, as applicable) 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 more severe sanction...*

19. The applicable period of Ineligibility is therefore four (4) years.

#### **Application of ADR Article 10.8.1**

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20. ADR Article 10.8.1 provides:

**10.8.1 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 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.*

21. Ms McBride admitted the ADRV's and accepted the asserted period of Ineligibility of four (4) years on 29 August 2021, twenty (20) days after receiving the Charge Letter. Accordingly, ADR Article 10.8.1 applies and Ms McBride shall receive a one

(1) year reduction to the asserted period of Ineligibility. The period of Ineligibility to be imposed is therefore three (3) years.

### **Commencement of the period of Ineligibility**

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22. ADR Article 10.13 requires that the period of Ineligibility starts on the date Ineligibility is accepted or otherwise imposed where there is no hearing.
23. However, ADR Article 10.13.2 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.
24. Ms McBride was Provisionally Suspended on 23 April 2021 and as far as UKAD is aware has respected the terms of that Provisional Suspension.
25. The period of Ineligibility is therefore deemed to have commenced on 23 April 2021 and will expire at midnight on 22 April 2024.

### **Status during Ineligibility**

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26. During the period of Ineligibility, in accordance with ADR Article 10.14.1, Ms McBride 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) BC or by any body that is a member of, or affiliated to, or licensed by BC;
  - 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.
27. Ms McBride may return to train with a team or to use the facilities of a club or other member organisation of BC or a Signatory's member organisation during the last two months of her period of Ineligibility (i.e. from midnight on 23 February 2024) pursuant to ADR Article 10.14.4(b).

### **Summary**

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

- a) Ms McBride has committed ADRVs pursuant to ADR Articles 2.1 and 2.2;
  - b) In accordance with ADR Article 10.9.4(a) the ADRVs are considered as one single ADRV for the purposes of imposing a sanction;
  - c) This constitutes Ms McBride's first ADRV;
  - d) Acknowledging Ms McBride's admission of the ADRVs and acceptance of the asserted period of Ineligibility in accordance with ADR Article 10.8.1, Ms McBride is entitled to a one (1) year reduction to the asserted period of Ineligibility of four (4) years. A period of Ineligibility of three (3) years is therefore imposed;
  - e) Acknowledging the Provisional Suspension, the period of Ineligibility is deemed to have commenced on 23 April 2021 and will expire at midnight on 22 April 2024; and
  - f) Ms McBride's status during the period of Ineligibility shall be as detailed in ADR Article 10.14.
29. Ms McBride, BC, the Union Cycliste Internationale (UCI) and WADA have a right to appeal against this Decision or any part of it in accordance with ADR Article 13.4.
30. This Decision will be publicly announced via UKAD's website in accordance with ADR Articles 8.5.3 and 10.15.

**23 September 2021**