



## **Issued Decision**

### **Rugby Football Union and Arran Perry**

#### **Disciplinary Proceedings under the Anti-Doping Rules of the Rugby Football Union**

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This is an Issued Decision made by the Rugby Football Union ('RFU') pursuant to the Anti-Doping Rules ('ADR') of the RFU. It concerns a violation of the prohibition against participation committed by Mr Arran Perry 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**

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1. The RFU is the national governing body for rugby union in England. UK Anti-Doping ('UKAD') is the National Anti-Doping Organisation ('NADO') for sport in the United Kingdom. Pursuant to RFU Regulation 20, the RFU has adopted, as its own ADR, the UK Anti-Doping Rules in relation to all anti-doping activities carried out by UKAD.
2. Mr Arran Perry is a 29-year-old rugby union player who played for Leighton Buzzard Rugby Football Club. At all material times in this matter, Mr Perry was subject to the jurisdiction of the RFU and bound to comply with the ADR. Pursuant to ADR Article 1.3.4(e), for the purposes of this case, UKAD has delegated Results Management responsibility to the RFU.

3. On 10 September 2020, the National Anti-Doping Panel (“NADP”) handed down a Decision in relation to an Anti-Doping Rule Violation (“ADRV”) by Mr Perry after the Prohibited Substance oxandrolone and three of its Metabolites were detected in an Out-of-Competition Sample he provided on 28 October 2019.
4. In its decision, the NADP found that Mr Perry had violated Article 21.2.1 of World Rugby Regulation 21<sup>1</sup> (Presence of a Prohibited Substance or Metabolites or Markers in a Player’s Sample). Mr Perry received a sanction of four years Ineligibility that runs from 20 December 2019 until 19 December 2023.
5. An Athlete’s status during a period of Ineligibility is set out at ADR Article 10.14.1 as follows:

*An Athlete or other Person who has been declared Ineligible, may not, during the period of Ineligibility, participate in any capacity (or, in the case of an Athlete Support Person, 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) the NGB or by any body that is a member of, or affiliated to, or licensed by, a Signatory or a Signatory’s member organisation; (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 government agency.*
6. On 13 November 2022 the RFU became aware of an allegation that Mr Perry had violated the prohibition against participation during his period of Ineligibility. Specifically, that he had participated in a training session for Shepshed RFC on 12 November 2022 that had been arranged following the cancellation of a first team match. The RFU investigated the matter, including obtaining a statement from the chairman of Shepshed RFC, and interviewing Mr Perry.

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<sup>1</sup> World Rugby Regulation 21 constitutes the substantive anti-doping rules in effect at the time of Mr Perry’s ADRV.

7. On conclusion of the RFU investigation, UKAD sent Mr Perry a notification letter (the 'Notice Letter') on 7 Feb 2023. The Notice Letter formally notified Mr Perry, in accordance with 2021 ADR Article 7.8, that he may have violated the prohibition against participation during his period of Ineligibility by participating in activity organised, convened, authorised, or recognised by a body that is a member of, or affiliated to, or licensed by the RFU, contrary to ADR Article 10.14.1.
8. In his response to the Notice Letter, Mr Perry accepted that his actions could be seen as a violation of the prohibition against participation, but re-iterated his position that he genuinely believed he was only participating in a 'kick-about' with friends and family.
9. UKAD considered Mr Perry's response, as well as the other evidence in the case, and authorised the RFU to charge Mr Perry with a violation of ADR Article 10.14.1, in accordance with ADR Article 7.11 and RFU regulation 20.13.4.
10. On 31 March 2023, the RFU proceeded to issue Mr Perry with a Charge Letter in accordance with ADR Article 7.11.2 and 7.11.3. The Charge Letter asserted the commission of an alleged breach of prohibition on participation pursuant to Article 10.14.1 (the 'Charge').

## **Admission and Consequences**

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11. On 18 April 2023, Mr Perry accepted the Charge against him, and the new period of Ineligibility asserted by the RFU of six (6) months (see below), pursuant to ADR Article 10.14.6.
12. In addition to Article 10.14.1 (set out at paragraph 5 above), Article 10.14.6 of the 2021 ADR provides that:

*If an Athlete or other Person who is Ineligible violates the prohibition against participation set out in Article 10.14.1, any results they obtain during such participation shall be Disqualified, with all resulting consequences, including forfeiture of all medals, titles, points and prizes, and a new period of Ineligibility equal in length to the original period*

*of Ineligibility shall be added to the end of the original period of Ineligibility. The new period of Ineligibility may be adjusted based on the Athlete's or other Person's degree of Fault and other circumstances of the case (and so may include a reprimand and no period of Ineligibility). The determination of whether an Athlete or other Person has violated the prohibition against participation, and whether the new period of Ineligibility should be adjusted, shall be made by the Anti-Doping Organisation which brought the case that led to the initial period of Ineligibility (or, if applicable reprimand) proposed by the Anti-Doping Organisation, the matter shall proceed to a hearing in accordance with ISRM Article 11.1. The hearing panel's decision may be appealed pursuant to Article 13.*

13. It follows that the RFU, as the Anti-Doping Organisation which brought the original charge, will determine both whether the breach has occurred and the new period of Ineligibility (if applicable) to be added, including whether any downward adjustment should be made from a period of four years, that being the length of the original period of Ineligibility imposed on Mr Perry. The question of adjustment is determined by the degree of Fault which the RFU ascribes to Mr Perry, along with "other circumstances of the case".

#### Fault

14. In assessing Mr Perry's level of Fault, the RFU has had regard to the definition of Fault with the ADR:

*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 Protected Person, 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 a career, or the timing*

*of the sporting calendar, would not be relevant factors to be considered in reducing the period of Ineligibility under Article 10.6.1 or 10.6.2.*

15. The RFU has accordingly taken account of the following factors in assessing the degree of Mr Perry's degree of Fault:

**Factors Increasing the Level of Fault**

- a) Mr Perry was sent a Reinstatement Letter on 8 July 2021, which confirmed the precise terms of his period of Ineligibility and the consequences of any breach. Mr Perry was aware of his period of Ineligibility and the prohibition against participation.
  
- b) While Mr Perry asserted that he did not consider this to be a club organised training session, he should have made greater enquiries as to whether he could participate.

**Factors Decreasing the Level of Fault**

- a) Mr Perry is an inexperienced Athlete who competed at an amateur level;
- b) The breach occurred on a single occasion;
- c) There was no financial benefit arising from the breach;
- d) Mr Perry admitted to taking part in the session and provided detail in relation to the session which matched the account that had been provided independently.

16. The RFU does not consider there to be any other circumstances relevant to determining the proper period of any new period of Ineligibility. Considering all the matters set out above the RFU considers that a reduction of 3 years and 6 months should be applied to the new period of Ineligibility pursuant to ADR Article 10.12.5

17. The new Period of Ineligibility will commence on 20 December 2023 and run for 6 months. It will expire at midnight on 19 June 2024.

18. During the period of Ineligibility, in accordance with ADR Article 10.14.1, Mr Perry shall not be permitted to participate in any capacity or, acting in the capacity of an Athlete Support Person, 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) The RFU or any body that is a member of, or affiliated to, or licensed by the RFU;
  - b) Any signatory (as that term is defined in the ADR)'
  - 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 government agency.
19. **Mr Perry may also return to train with a team or to use the facilities of a club or other member organisation of the RFU or a Signatory's member organisation during the last two months of his new period Ineligibility (i.e. from 19 April 2023) pursuant to ADR Article 10.12.4(b)**

## Summary

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20. For the reasons given above, the RFU has issued this Decision in accordance with ADR Article 7.12.2, and records that:
- a) Mr Perry has committed a violation of the prohibition against participation pursuant to ADR Article 10.14.1;
  - b) A new period of Ineligibility of six (6) months shall be the Consequences imposed pursuant to ADR Article 10.14.6;
  - c) The new period of Ineligibility imposed for violation of the prohibition against participation will commence on 20 December 2023 and expire at midnight on 19 June 2024.

d) Mr Perry's status during the period of Ineligibility shall be as detailed in ADR Article 10.14.

21. Mr Perry, UKAD, World Rugby, and WADA have a right to appeal against this Decision or any part of it in accordance with ADR Article 13.4.
22. The Decision will be publicly announced via the RFU & UKAD's website in accordance with ADR Article 8.5.3 and ADR Article 10.15.

**19 September 2023**