

Issued Decision

UK Anti-Doping and Joshua Hicks

Disciplinary Proceedings under the Anti-Doping Rules of the Welsh Rugby Union

This is an Issued Decision made by UK Anti-Doping Limited ('UKAD') pursuant to the Anti-Doping Rules ('ADR') of the Welsh Rugby Union ('WRU'). It concerns violations against the prohibition against participation during a period of Ineligibility committed by Mr Joshua Hicks and records the applicable Consequences.

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

Background and Facts

1. The WRU is the national governing body for the sport of rugby union in Wales. The WRU has adopted the UK Anti-Doping Rules ('ADR') as its anti-doping rules.
2. On 8 October 2022, UKAD collected a urine Sample from Mr Hicks In-Competition. Analysis of Mr Hicks' A Sample returned Adverse Analytical Findings ('AAFs') for the following Prohibited Substances: anastrozole; tamoxifen Metabolite, 3-hydroxy-4-methoxytamoxifen; drostanolone; and drostanolone Metabolite, 3 α -hydroxy-2 α -methyl-5 α -androstane-17-one. Pursuant to a UKAD Issued Decision dated 25 August 2023, which confirmed that Mr Hicks had committed ADRVs contrary to ADR Article 2.1 and 2.2, a four (4) year period of Ineligibility was imposed on him.
3. In October 2023, UKAD became aware of allegations that Mr Hicks had violated the prohibition against participation during his period of Ineligibility. Specifically, it is alleged that he played football for Herbrandston AFC in the Manderwood Pembrokeshire AFL Division 2, a Competition authorised or recognised by the Football Association of Wales ('FAW')¹, on the following occasions:
 - i. Herbrandston AFC v Carew AFC Reserves on 9 September 2023;
 - ii. Herbrandston AFC v Broad Haven AFC on 16 September 2023; and
 - iii. Herbrandston AFC v Hakin United FC Reserves on 23 September 2023.
4. In January 2024, Mr Hicks attended an interview with UKAD, and outlined his version of events in relation to the alleged conduct. In summary, Mr Hicks accepted registering with the FAW in September 2023 and playing in the fixtures listed above. He said that

¹ The FAW is a member organisation of FIFA, which is a signatory to the World Anti-Doping Code ('the Code').

he had played in the fixtures as he was unsure as to whether his ban applied to sports other than rugby union, and considered that as he was registering and playing football under his own name, the FAW would have informed him had he not been eligible.

5. In February 2024, UKAD sent a letter (the 'Notice Letter') formally notifying Mr Hicks in accordance with ADR Article 7.8, that between 8 and 24 September 2023, he may have violated the prohibition against participation during his period of Ineligibility.
6. In April 2024, UKAD sent a Charge Letter to Mr Hicks, which formally charged him with the violations asserted in the Notice Letter.
7. In his responses to both the Notice and Charge Letter, Mr Hicks accepted the violations.

Consequences

8. ADR Article 10.14 provides that:

10.14.1 While serving a period of Ineligibility or Provisional Suspension, an Athlete or other Person may not 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) the NGB or by any body that is a member of, or affiliated to, or licensed by the NGB; (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.

[...]

10.4.6 If an Athlete or other Person 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. If the Athlete or other Person does not accept the new 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.

An Athlete or other Person who violates the prohibition against participation during a Provisional Suspension set out in Article 10.14.1 shall receive no credit for any period of Provisional Suspension served and any results they obtain during such participation shall be Disqualified, with all resulting consequences, including forfeiture of all medals, titles, points and prizes.

9. Pursuant to Article 11.1 (and its associated comment) of the World Anti-Doping Agency's International Standard for Results Management 2021, the Results Management relating to this matter shall be *mutatis mutandis* in accordance with Article 7 and Article 8 of the ADR.
10. In accordance with ADR Article 10.14.6, the starting point for Mr Hicks' new period of Ineligibility is four (4) years, i.e., being a period equal in length to his original period of Ineligibility. The new period of Ineligibility can be adjusted based on Mr Hicks' degree of Fault and other circumstances of the case.

Fault

11. In assessing Mr Hicks' level of Fault, UKAD has had regard to the definition of Fault within 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 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.

12. UKAD considers that the following factors are the key considerations in assessing Mr Hicks' level of Fault in this matter:

Factors Increasing the Level of Fault

- a) Mr Hicks violated the prohibition against participation during a period of Ineligibility on three separate occasions.
- b) In a telephone call with a UKAD Lawyer on 19 December 2022, shortly after Mr Hicks was provisionally suspended by UKAD after being notified of ADRVs under ADR Articles 2.1 and 2.2, his status while subject to a Provisional Suspension was explained to him. This explanation included the fact that his status while provisionally suspended was as per ADR Article 10.14 and he was ineligible to participate in any Code-compliant sport.
- c) UKAD's Issued Decision in relation to Mr Hicks' ADRVs was circulated on 25 August 2023 (15 days before his first match with Herbrandston AFC) and outlined the status that applied to him during his period of Ineligibility. Moreover, UKAD's Notice Letter of 16 December 2022 and Charge Letter of 3 March 2023 in respect of his ADRVs also outlined that any ban to be imposed would be enforced across all Code-compliant sport.

Factors Decreasing the Level of Fault

- a) Mr Hicks is an inexperienced Athlete who participated at Recreational level.
- b) Mr Hicks has never received anti-doping education.
- c) Mr Hicks made full admissions to participating in three football fixtures, and made no efforts to disguise his identity in the course of his participation.
- d) Mr Hicks stopped participating in football once UKAD's Issued Decision was published on 5 October 2023. This was because, on Mr Hicks' account, the press release that accompanied the Issued Decision made it clear to him that his ban related to all Code-compliant sport, not just rugby union.
- e) There is no evidence that Mr Hicks participated in football for financial benefit.

13. In light of all of the matters set out above, UKAD applies a reduction of two years, six months to the new period of Ineligibility in respect of Mr Hicks' breach of his original ban, resulting in a further period of Ineligibility of 18 months. This additional period of Ineligibility will be added to the end of Mr Hicks' current period of Ineligibility, which was due to expire at midnight on 15 December 2026.

14. The additional period of Ineligibility of 18 months asserted by UKAD was outlined to Mr Hicks in UKAD's Charge Letter dated 25 April 2024. Mr Hicks accepted this additional period of Ineligibility in his response to UKAD.

Status during Ineligibility

15. During the period of Ineligibility, in accordance with ADR Article 10.14.1, Mr Hicks 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) The WRU or by any body that is a member of, or affiliated to, or licensed by the WRU;
- 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.

16. Mr Hicks may return to train with a team or to use the facilities of a WRU club or Signatory's member organisation during the last two months of his period of Ineligibility (i.e., from midnight on 15 April 2028).

Summary

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

- a. Mr Hicks has committed violations of the prohibition against participation during a period of Ineligibility, pursuant to ADR Article 10.14.1;
- b. A further period of Ineligibility of 18 months shall be imposed pursuant to ADR Article 10.14.6;
- c. The further period of Ineligibility will commence on 16 December 2026 and will expire at midnight on 15 June 2028;
- d. Mr Hicks' status during the period of Ineligibility shall be as detailed in ADR Article 10.14.

18. Mr Hicks, the WRU, World Rugby and WADA have a right to appeal against this decision or any part of it in accordance with ADR Article 13.4.

19. This decision will be publicly announced via UKAD's website in accordance with ADR Article 8.5.3 and ADR Article 10.15.

22 May 2024