

Issued Decision

UK Anti-Doping and Charlotte Coburn

Disciplinary Proceedings under the Anti-Doping Rules of British Rowing

This is an Issued Decision made by UK Anti-Doping Limited ('UKAD') pursuant to the Anti-Doping Rules ('ADR') of British Rowing ('BR'). It concerns Anti-Doping Rule Violations ('ADRVs') committed by Charlotte Coburn 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. BR is the national governing body for the sport of rowing in the United Kingdom. UKAD is the National Anti-Doping Organisation for the United Kingdom. BR has adopted, as its own ADR, the UK Anti-Doping Rules¹, which are issued by UKAD and subject to updates made by UKAD, as necessary and in accordance with the World Anti-Doping Code.
2. Ms Coburn is a 29-year-old rower who, at the material time, was on the BR World Class Programme and part of the BR Para-Rowing Squad. Ms Coburn was subject to the jurisdiction of BR and bound to comply with the ADR. Pursuant to ADR Article 7.2, UKAD has Results Management responsibility in respect of all Athletes that are subject to the jurisdiction of BR.

Medical Declaration Form

3. On 17 February 2024, Ms Coburn was due to compete in a BR Paralympic Trials Event ('the Event'). As part of the anti-doping screening process overseen by BR, Ms Coburn was required to complete a Medical Declaration Form prior to competing in the Event. Ms Coburn completed the BR Medical Declaration Form on 16 February 2024. On this form, Ms Coburn declared her use of medications, which included a Bricanyl Turbohaler (the 'reliever inhaler').²
4. On 17 February 2024, prior to the Event commencing, the BR Chief Medical Officer ('CMO') reviewed Ms Coburn's Medical Declaration Form. On doing so, the CMO

¹ Version 1.0, in effect as from 1 January 2021

² The inhaler was prescribed to Ms Coburn as a reliever inhaler, to use periodically to relieve her asthma symptoms when they occurred.

identified that the reliever inhaler which Ms Coburn had declared contained the Prohibited Substance terbutaline.

5. Terbutaline is listed at section S3 of the 2024 WADA Prohibited List as a Beta-2 Agonist. It is a Specified Substance that is prohibited at all times.
6. The CMO also identified that Ms Coburn did not have a Therapeutic Use Exemption ('TUE') for the use of the reliever inhaler containing terbutaline. As a result of her inclusion in UKAD's National TUE Pool (due to her level of participation in rowing) Ms Coburn was required to obtain a TUE prior to the Use or Possession of any Prohibited Substance for which she had a therapeutic need. On this basis, BR subsequently withdrew Ms Coburn from the Event, and the BR World Class Programme, and notified UKAD of the matter.

Initial Review, Notification and Charge

7. On 21 February 2024, UKAD sent Ms Coburn an Initial Review Letter ('the Letter') seeking to establish the nature of her Use of terbutaline. In the Letter, UKAD informed Ms Coburn that, subject to her response, she may be invited to apply for a retroactive TUE or, alternatively, UKAD may be required to conduct a full investigation to determine whether Ms Coburn has committed any ADRVs. Further correspondence followed between UKAD and Ms Coburn regarding the nature of her Use of terbutaline to treat her asthma.
8. On 19 March 2024, Ms Coburn applied for a retroactive TUE for her Use of the reliever inhaler which contained terbutaline. She did this by completing a TUE Beta-2 Agonist Application Form and appending to this Form all of her relevant medical records. Following a request by UKAD for additional information and the provision by Ms Coburn of the same, the matter was remitted to UKAD's TUE Fairness Review Panel ('the Panel').
9. On 26 April 2024, the Panel denied Ms Coburn's application for a retroactive TUE. The Panel concluded that Ms Coburn had neglected her anti-doping duties in not applying for a TUE in advance of taking her prescribed reliever inhaler. In such circumstances, the Panel concluded that it was not manifestly unfair to reject her request for a retroactive TUE.
10. On 06 June 2024, UKAD sent Ms Coburn a notification letter ('the Notice'). The Notice confirmed the imposition of a Provisional Suspension and formally notified Ms Coburn, in accordance with ADR Article 7.8, that she may have committed ADRVs pursuant to ADR Article 2.2 (Use of a Prohibited Substance) and ADR Article 2.6 (Possession of a Prohibited Substance). On 24 June 2024, Ms Coburn provided her response to the Notice in which she admitted the ADRVs and asserted that she bore No Significant Fault or Negligence for the violations.

11. On 10 July 2024, UKAD sent Ms Coburn a Charge Letter, which formally charged her with ADRVs pursuant to ADR Article 2.2 and ADR Article 2.6.

Ms Coburn's Position

12. On 18 July 2024, Ms Coburn responded to the Charge Letter. Ms Coburn admitted the ADRVs but asserted that she bore No Significant Fault or Negligence for the violations. UKAD therefore referred the matter to the National Anti-Doping Panel ('NADP') for arbitration on 23 July 2024.

13. Through correspondence, evidence and submissions, Ms Coburn explained that she had been diagnosed with asthma when she was five years old, long before she became an Athlete. Ms Coburn explained that when she was first diagnosed with asthma, she was prescribed a 'reliever' inhaler (which contained salbutamol) to use occasionally when she had particular difficulty breathing. She further explained that the following year she was prescribed a 'preventer' inhaler, to use daily to prevent asthma symptoms from occurring, and a different brand of reliever inhaler (which also contained salbutamol). Thereafter, for many years, she used a 'preventer' inhaler daily and a 'reliever' inhaler occasionally, when she had particular difficulty breathing. Prior to December 2022, Ms Coburn's reliever inhaler always contained salbutamol, which is not Prohibited if inhaled within the permitted dose.³ Ms Coburn's reliever inhaler had been changed previously, but only the brand and not the medication was changed; each replacement reliever inhaler contained salbutamol. Ms Coburn's position was that she was aware that salbutamol was not Prohibited if used in accordance with the permitted dose. Ms Coburn's inhalers were usually prescribed to her on a repeat basis following an annual asthma review. Ms Coburn explained that she had controlled her asthma in this way during most of her life.

14. On 29 December 2022, during her annual asthma review, Ms Coburn's Nurse Prescriber, who was aware that Ms Coburn was a rower and bound to comply with anti-doping rules, informed Ms Coburn that she was swapping her preventer inhaler for a different type of inhaler, containing a different type of medication, because she had been on it for a long time and it may no longer be effective. When Ms Coburn asked the Nurse Prescriber about her reliever inhaler, Ms Coburn's position was that she was told that her reliever inhaler, which was an aerosol, was no longer being prescribed due to its impact on the environment. The Nurse Prescriber therefore informed Ms Coburn that her reliever inhaler was being switched to a powdered version.

15. Ms Coburn asserted that she was fully aware that the medication in her preventer inhaler had been changed by the Nurse Prescriber during their consultation. In support of this, Ms Coburn confirmed that she undertook a search on GlobalDRO

³ Salbutamol is a Prohibited Substance, except where it is inhaled within the permitted dose. The 2024 WADA Prohibited List prescribed that inhaled salbutamol is not Prohibited where a maximum of 1600 micrograms is inhaled over 24 hours in divided doses not to exceed 600 micrograms over 8 hours starting from any dose.

following the consultation, which confirmed that she checked she was permitted to take the new preventer inhaler. However, Ms Coburn claimed she was not told that the medication in her reliever inhaler was also being changed at the same time. Ms Coburn claimed that, during their consultation, the Nurse Prescriber's primary focus was to explain the change to the preventer inhaler. The Nurse Prescriber then spent very little time dealing with the changes to the form of Ms Coburn's reliever inhaler towards the end of the consultation. In support of this, Ms Coburn pointed to the comment section of the notes of the consultation, which made no reference to a change to the reliever inhaler, or to the reliever inhaler at all:

*Training for rowing to enter paraolympics [sic] in London, house has dog, triggering symptoms
Plan: swap to fostair nexthaler different particles, assess, if improved continue, if not go back on simbicort [sic]...*

16. Ms Coburn understood from this consultation that her reliever inhaler medication would continue to be salbutamol, as previously prescribed, changing in form and appearance only, from aerosol to powder. As a consequence, Ms Coburn did not conduct any checks on this reliever inhaler, as she had checked her existing reliever inhaler and was satisfied that it was not Prohibited when used in accordance with the permitted dose. Ms Coburn claimed she was therefore unaware that she was required to apply for a TUE for permission to use this replacement reliever inhaler. Ms Coburn accepted that she now understands that the medication in her replacement reliever inhaler was also changed at this time and thereafter contained the Prohibited Substance terbutaline.
17. Ms Coburn further explained that, in December 2023 she was diagnosed with ADHD. Prior to this, Ms Coburn suspected, for some time, that she had ADHD but she, had been unable to undergo a medical assessment via the National Health Service in a timely way. Ms Coburn asserted that this untreated ADHD impacted her prior to her official diagnosis, specifically in relation to her ability to intake and recall information provided to her during anti-doping training sessions and her ability to understand and act on the information provided to her by the Nurse Prescriber.
18. Ms Coburn provided independent medical evidence, which included an expert report from Dr Hari Sholinghur (consultant psychiatrist and neuropsychiatrist), in which it was confirmed that Ms Coburn's ADHD would have impaired her ability to recognise, during her annual asthma review in December 2022, that the medication contained in her reliever inhaler was being changed. In his report, Dr Sholinghur concluded that "*it is highly unlikely*" that Ms Coburn "*would have been able to fully pay attention, understand, assimilate and finally remember the changes to the medication, particularly the latter part, i.e., discussions about the reliever [inhaler].*" Dr Sholinghur further explained that "*In Ms Coburn's case, when her medication was changed,*

there was no plan or discussion initiated by the GP practice (the nurse). The aim was to change the preventer, not the reliever...”

19. This position was affirmed by the independent medical expert instructed by UKAD, Dr Alan Currie, Consultant Psychiatrist, who was instructed to review Ms Coburn’s position and the medical evidence presented. Dr Currie concluded:

The reports of this consultation [on 29 December 2022] contains [sic] several important elements. Firstly, the focus was on the preventive medication and not the reliever treatment. In ADHD it is typical for sufferers to find it hard to maintain focus on the less important or peripheral elements of a discussion. Secondly, the discussion with respect to switching from salbutamol to bricanyl occurred towards the end of a sequence of changes and explanations. In ADHD it is typical for attention to waiver towards the end of a complex sequence such as this. [...]

It is additionally relevant that the reports and records of the consultation make no mention of a change in the drug being delivered by the new reliever device. In ADHD explicit clear information is necessary and this often has to be repeated multiple times for it to register effectively. I note that the consultation in question occurred before there was consideration of an ADHD diagnosis and some months before the first ADHD evaluation, meaning that consideration might not have been given to delivering information in this more helpful manner. I think this combination of circumstances (impaired attention to peripheral and later elements of the consultation and no accommodation of the mode of delivery of information for possible attention deficits) make it highly likely that her ability to recognise the change in medication was impaired.

20. Ms Coburn filed extensive evidence and submissions in advance of the hearing scheduled to take place in December 2024, including witness statements (from her, Elaine Hunniford, the Athlete Support Manager and Head of Safeguarding at the British Elite Athletes Association, and Helen Ferguson, Senior Performance Lifestyle Coach and Wellbeing Coordinator at The UK Sports Institute) and medical evidence (including her medical records insofar as they related to her asthma, her DIVA-5 assessment completed by Dr Tim Rogers which concluded that she had ADHD, and the expert report by Dr Sholinghur).
21. Shortly before this matter was due to be heard by the NADP, and upon the filing of additional submissions and evidence by Ms Coburn, UKAD was able to reach agreement with Ms Coburn that a hearing before the NADP was no longer required. The case was subsequently remitted back for UKAD to issue a decision in accordance with ADR Article 7.12.2.

Consequences

22. ADR Article 2.2 provides that the following is 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.

23. ADR Article 2.6 provides that the following is an ADRV:

2.6 Possession of a Prohibited Substance and/or Prohibited Method.

2.6.1 Possession by an Athlete In-Competition of a Prohibited Substance or any Prohibited Method, or Possession by an Athlete Out-of-Competition of any Prohibited Substance or any Prohibited Method which is prohibited Out-of-Competition unless the Athlete establishes that the Possession is consistent with a Therapeutic Use Exemption ('TUE') granted in accordance with Article 4 or other acceptable justification.

24. ADR Article 10.2 provides 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) [...]

(b) The Anti-Doping Rule Violation involves a Specified Substance or a Specified Method and UKAD can establish that the Anti-Doping Rule Violation was intentional.

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.

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...

25. In accordance with ADR Article 10.2.1(b), since this matter concerns a Specified Substance, the period of Ineligibility imposed shall be two (2) years, unless UKAD can demonstrate that the ADRVs were 'intentional' (within the meaning of ADR

Article 10.2.3). If UKAD is able to prove that the ADRVs were intentional, the period of Ineligibility to be imposed shall be four (4) years (ADR Article 10.2.1(b)).

26. Having considered Ms Coburn's evidence and submissions, UKAD does not assert that the ADRVs were 'intentional' (within the meaning of ADR Article 10.2.3).

27. The applicable period of Ineligibility is therefore two (2) years.

28. ADR Article 10.6 provides as follows:

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

10.6.1 Reduction of Sanctions in particular circumstances for Anti-Doping Rule Violations under Article 2.1, 2.2 or 2.6:

All reductions under Article 10.6.1 are mutually exclusive and not cumulative.

(a) Specified Substances or Specified Methods

Where the Anti-Doping Rule Violation involves a Specified Substance (other than a Substance of Abuse) or Specified Method, and the Athlete or other Person can establish that they bear No Significant Fault or Negligence for the violation, the period of Ineligibility shall be, at a minimum, a reprimand and no period of ineligibility, and at a maximum, two (2) years of Ineligibility, depending on the Athlete's or other Person's degree of Fault.

29. The term Fault is defined within the ADR as follows:

Fault:

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.

30. The term No Significant Fault or Negligence is defined in the ADR as follows:

No Significant Fault or Negligence:

The Athlete or other Person's establishing that any 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 relation to the Anti-Doping Rule Violation...

31. UKAD has considered Ms Coburn's submissions and evidence in full. In particular, UKAD accepts the independent medical evidence of Drs Sholinghur and Currie, that the manner in which the Nurse Prescriber communicated the change in Ms Coburn's asthma medication to her, in the context of Ms Coburn having undiagnosed and untreated ADHD, would have significantly impaired Ms Coburn's ability to recognise that the medication contained in her reliever inhaler had changed. On the basis of those exceptional circumstances, fully supported by compelling independent medical evidence, UKAD considers that Ms Coburn bore No Significant Fault or Negligence for the ADRVs. In accordance with ADR Article 10.6.1 a period of Ineligibility between 0 and 24 months applies, depending on an assessment of Ms Coburn's degree of Fault.

32. In applying ADR Article 10.6.1, UKAD has followed the approach taken by the CAS panel in the case of *Cilic v ITF CAS 2013/A/3327*. This approach involves an assessment of Ms Coburn's objective Fault, being the standard of care that could have been expected from a reasonable person in Ms Coburn's situation, in order to assign her Fault into one of three categories. 'Considerable' Fault means that a period of Ineligibility of 16 to 24 months applies; 8 to 16 months applies with a 'normal' degree of Fault; and 0 to 8 months applies with a 'light' degree of Fault. After assessing objective Fault, an assessment of subjective Fault is required, which goes to what could have been expected from Ms Coburn in light of her personal circumstances. This assessment of subjective Fault is then used to establish where in the applicable category of Fault the period of Ineligibility should be set. In exceptional circumstances, the subjective elements of Fault may be so significant that they move an Athlete into a different category of Fault.

33. Ms Coburn accepted that she should have checked whether her medication contained a Prohibited Substance on GlobalDRO and that she should have applied for a TUE in advance of using the replacement reliever inhaler. Objectively, in this regard UKAD considers Ms Coburn bears a 'considerable' degree of Fault for the additional following reasons:

- (a) Ms Coburn does not purport to have checked the label or packaging of the reliever inhaler when it was prescribed on 29 December 2022 or anytime thereafter before 17 February 2024;
- (b) Ms Coburn does not purport to have undertaken any internet searches at any time between 29 December 2022 and 17 February 2024 to determine whether the reliever inhaler contained a Prohibited Substance;

- (c) Ms Coburn did not inform the CMO of her Use of the reliever inhaler until 16 February 2024 (some 14 months after it was prescribed); and
- (d) Ms Coburn did not make any enquiries between 29 December 2022 and 17 February 2024 with the CMO, or anyone else, regarding whether she would require a TUE for her Use of the reliever inhaler.

34. In respect of subjective Fault, UKAD notes of the following:

- (a) The lack of clarity with which the change in medication was relayed to Ms Coburn by the Nurse Prescriber during her consultation on 29 December 2022;
- (b) Ms Coburn's undiagnosed and untreated ADHD at the time of the consultation and the impact this had on her understanding of the change in her medication;
- (c) Ms Coburn's ADRVs arose through her honest declaration of the reliever inhaler on a BR Medical Declaration Form which she completed. The ADRVs did not arise from a Sample Ms Coburn provided to UKAD⁴;
- (d) Ms Coburn's relative inexperience⁵;
- (e) Ms Coburn's anti-doping education⁶;
- (f) Ms Coburn's inclusion in the BR World Class Programme and her access to readily available medical support / advice from the CMO⁷.

35. Taking account of all of the subjective factors, and in particular the lack of clarity with which the reliever inhaler was prescribed, combined with Ms Coburn's undiagnosed and untreated ADHD at the time of the appointment and the effect this had on her ability to understand the change in medication, UKAD has assessed Ms Coburn's subjective Fault as being at the low end of 'normal'. UKAD considers that there are exceptional subjective circumstances in this matter that support the conclusion of a low degree of 'normal' Fault overall.

36. In view of the above and in consideration of all the circumstances, UKAD considers that the appropriate period of Ineligibility is 9 months.

37. Pursuant to ADR Articles 10.2.2 and 10.6.1, a period of Ineligibility of 9 months is therefore imposed.

⁴ A urine Sample was collected from Ms Coburn less than three weeks before her disclosure to the CMO, on 28 January 2024, which did not return an AAF for any Prohibited Substance.

⁵ Ms Coburn started rowing in 2020 and joined the BR World Class Programme on 1 December 2021.

⁶ Ms Coburn received anti-doping education from BR via an online anti-doping seminar on 7 April 2021 and an in-person workshop on 15 March 2023. Ms Coburn also completed the UKAD 'Compete Clean+' e-learning course on 27 August 2023 and attended a 'Paris Clean Sport Scenario' workshop on 16 January 2024.

⁷ Who operated an 'open door' policy.

Commencement of period of Ineligibility

38. 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.
39. 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.
40. Ms Coburn has been subject to a Provisional Suspension since the date of the Notice, i.e., since 06 June 2024, and as far as UKAD is aware she has respected the terms of that Provisional Suspension. Therefore, affording Ms Coburn credit for the time she has spent provisionally suspended, her period of Ineligibility is deemed to have commenced on 06 June 2024 and will end at 11:59pm on 05 March 2025.

Status during Ineligibility

41. During the period of Ineligibility, in accordance with ADR Article 10.14.1, Ms Coburn 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) BR;
 - 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.
42. Ms Coburn may return to train with a team or to use the facilities of a BR club or a Signatory's member organisation during the last two months of her period of Ineligibility (i.e. from 11:59pm on 05 January 2025) pursuant to ADR Article 10.14.4(b).

Summary

43. For the reasons given above, UKAD has issued this Decision in accordance with ADR Article 7.12.2, and records that:
 - a) Ms Coburn has committed ADRVs pursuant to ADR Articles 2.2 and 2.6;

- 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 Coburn's first ADRV, and a period of Ineligibility of 9 months is imposed pursuant to ADR Articles 10.2.2 and 10.6.1;
- d) Acknowledging Ms Coburn's Provisional Suspension, the period of Ineligibility is deemed to have commenced on 06 June 2024 and will expire at 11:59pm on 05 March 2025; and
- e) Ms Coburn's status during the period of Ineligibility shall be as detailed in ADR Article 10.14.

44. Ms Coburn, British Rowing, World Rowing and WADA have a right to appeal against this Decision or any part of it in accordance with ADR Article 13.4.

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

20 December 2024